97th Congress
2d Session

HOUSE OF REPRESENTATIVES

Report
No. 97-780

BUS REGULATORY REFORM ACT OF 1982

August 19, 1982.—Ordered to be printed

Mr. Howard, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 3663]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Bus Regulatory Reform Act of 1982".

PURPOSE OF THE ACT

Sec. 2. This Act is part of the continuing effort by Congress to reduce unnecessary and burdensome Government regulation.

CONGRESSIONAL FINDINGS

Sec. 3. The Congress hereby finds that a safe, sound, competitive, and fuel-efficient motor bus system contributes to the maintenance of a strong national economy and a strong national defense and is vital to the transportation needs of the elderly, handicapped, and the poor; that the statutes governing Federal regulation of the motor bus industry are outdated and must be revised to reflect the future transportation needs and realities; that historically the existing Federal and State regulatory structure has tended in certain circumstances to inhibit market entry, carrier growth, maximum utiliza-

89-006 O - 82

H643-16

tion of equipment and energy resources, and opportunities for minorities and others to enter the motor bus industry; that State regulation of the motor bus industry has, in certain circumstances, unreasonably burdened interstate commerce; that overly protective regulation has resulted in operating inefficiencies and diminished price and service competition in the motor bus industry; that the objectives contained in the national transportation policy can best be achieved through greater competition and reduced regulation; that in order to reduce the uncertainty felt by the Nation's motor bus industry and those persons and communities that rely on its services, the Interstate Commerce Commission should be given explicit direction for reduced regulation of the motor bus industry and should do everything within its power to promote competition in the motor bus industry; and that legislative and resulting changes should be implemented without unnecessary disruption to the transportation system consistent with the scope of the reforms enacted.

CONGRESSIONAL OVERSIGHT

Sec. 4. The appropriate authorizing committees of Congress shall conduct periodic oversight hearings on the effects of this legislation, not less than annually until July 1, 1985, to ensure that this Act is being implemented according to congressional intent and purpose.

NATIONAL TRANSPORTATION POLICY

Sec. 5. Subsection (a) of section 10101 of title 49, United States Code, is amended by striking out "and in regulating those modes" and all that follows through the period at the end of such subsection and inserting in lieu thereof the following: "and—

"(1) in regulating those modes—

"(A) to recognize and preserve the inherent advantage of each mode of transportation;

"(B) to promote safe, adequate, economical, and efficient transportation;

"(C) to encourage sound economic conditions in transportation, including sound economic conditions among carriers;

"(D) to encourage the establishment and maintenance of reasonable rates for transportation, without unreasonable discrimination or unfair or destructive competitive practices;

"(E) to cooperate with each State and the officials of each State on transportation matters; and

"(F) to encourage fair wages and working conditions in the transportation industry;

"(2) in regulating transportation by motor carrier, to promote competitive and efficient transportation services in order to (A) meet the needs of shippers, receivers, passengers, and consumers; (B) allow a variety of quality and price options to meet changing market demands and the diverse requirements of the shipping and traveling public; (C) allow the most productive use of equipment and energy resources; (D) enable efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; (E) provide and

maintain service to small communities and small shippers and intrastate bus services; (F) provide and maintain commuter bus operations; (G) improve and maintain a sound, safe, and competitive privately owned motor carrier system; (H) promote greater participation by minorities in the motor carrier system; and (I) promote intermodal transportation; and

"(3) in regulating transportation by motor carrier of passengers (A) to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; (B) to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and (C) to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1982 are not nullified by State regulatory actions.".

MOTOR CARRIER OF PASSENGERS ENTRY POLICY

SEC. 6. (a) Subsection (a) of section 10922 of title 49, United States Code, is amended (1) by striking out "II or", and (2) by striking out "motor common carrier of passengers or water common carrier, respectively," and inserting in lieu thereof "water common carrier".

(b) Section 10922 of title 49, United States Code, is amended by redesignating subsections (c), (d), (e), (f), (g), (h), (i), and (j) (and any references thereto) as subsections (d), (e), (f), (g), (h), (i), (j), and (k), respectively, and by inserting after subsection (b) the following new subsection:

"(c)(1) Except as provided in this section—

"(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers and shall issue a certificate to a recipient of governmental financial assistance for the purchase or operation of buses, or to an operator for such a recipient, authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers, if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(B) For any application for authority as a motor common carrier of passengers, except an application to which subparagraph (A) of this paragraph applies, the Commission shall issue a certificate to a person authorizing that person to provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title as a motor common carrier of passengers if the Commission finds that the person is fit, willing, and able to provide the transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission.

"(2)(A) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation en-

tirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has authority on the effective date of this subsection to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized would directly compete with a commuter bus operation and it would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed.

"(B) The Commission shall issue a certificate to a person authorizing that person to provide regular-route transportation entirely in one State as a motor common carrier of passengers if such intrastate transportation is to be provided on a route over which the carrier has been granted authority, or will be granted authority, after the effective date of this section to provide interstate transportation of passengers if the Commission finds that the person is fit, willing, and able to provide the intrastate transportation to be authorized by the certificate and to comply with this subtitle and regulations of the Commission, unless the Commission finds, on the basis of evidence presented by any person objecting to the issuance of the certificate, that the transportation to be authorized is not consistent with the public interest.

"(C) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard or other provision having the force and effect of law relating to the provision of pickup and delivery of express packages, newspapers, or mail in a commercial zone if the shipment has had or will have a prior or subsequent movement by bus in intrastate commerce and if a city within the commercial zone, as defined in section 10526(b)(1) of this title, is served by a motor common carrier of passengers providing regular-route transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.

"(D) Subject to subparagraph (F) of this paragraph, any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this subtitle. Upon issuance of such certificate, the carrier shall establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under such subchapter establishes rates, rules, and practices applicable to such interstate transportation. Any such rate, rule, or practice (including changes thereto) shall be subject to the provisions of chapter 107 of this subtitle as if such rate, rule, or practice were related to interstate transportation.

"(E) Not later than 30 days after the date on which a motor common carrier of passengers first begins providing transportation entirely in one State pursuant to a certificate issued under this paragraph, the carrier shall take all action necessary to establish

under the laws of such State rates, rules, and practices applicable to such transportation.

"(F) Transportation entirely in one State authorized by issuance of a certificate under this paragraph shall remain subject to the jurisdiction of the Commission, and rates, rules, and practices applicable to such transportation established under subparagraph (D) of this paragraph shall remain in effect, until permanent rates, rules, and practices applicable to such transportation are established under the laws of such State.

"(G) The Commission shall take final action upon an application filed under subparagraph (A) of this paragraph for authority to provide transportation entirely in one State not later than 90 days after the date the application is filed with the Commission.

"(H) This paragraph shall not apply to any regular-route transportation of passengers provided entirely in one State which is in the nature of a special operation.

"(I) Notwithstanding subparagraph (F) of this paragraph, intrastate transportation authorized under this paragraph may be suspended or revoked by the Commission under section 10925 of this title.

"(3) In making any findings relating to public interest under paragraphs (1)(A) and (2)(B) of this subsection, the Commission shall consider, to the extent applicable—

"(A) the transportation policy of section 10101(a) of this title;

"(B) the value of competition to the traveling and shipping public;

"(C) the effect of issuance of the certificate on motor carrier of passenger service to small communities; and

"(D) whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the regular-route passenger service which such carrier provides over its entire regular-route system; except that diversion of revenue or traffic from a motor common carrier of passengers in and of itself shall not be sufficient to support a finding that issuance of the certificate would impair the ability of the carrier to provide a substantial portion of the regular-route passenger service which the carrier provides over its entire regular-route system.

"(4) The provisions of paragraph (1) of this subsection relating to the Commission finding that transportation to be authorized by issuance of a certificate is not consistent with the public interest shall not apply to any application under this subsection for authority to provide—

"(A) interstate transportation service to any community not regularly served by a motor common carrier of passengers under this section;

"(B) interstate transportation service which will be a substitute for discontinued rail or commercial air passenger service to a community if such discontinuance results in such community not having any rail and commercial air passenger service and if such application is filed within 180 days after such discontinuance becomes effective; and

"(C) interstate transportation service to any community with respect to which the only motor common carrier of passengers *providing interstate transportation service to such community applies for authority to discontinue providing such interstate service under section 10925(b) of this subchapter or applies for permission to discontinue or reduce its level of intrastate service to such community under section 10935 of this subchapter.*

"(5) The Commission may not make any finding under paragraphs (1) and (2) of this subsection which is based upon general findings developed in rulemaking proceedings.

"(6) The requirement that persons issued certificates under this subsection be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.

"(7) No motor common carrier of passengers may protest an application to provide transportation filed under this subsection or a request to remove an operating restriction under section 10922(i)(4) of this title unless—

"(A)(i) it possesses authority to handle, in whole or in part, the traffic for which authority is applied;

"(ii) it is willing and able to provide service that meets the reasonable needs of the traveling public; and

"(iii) it has performed service within the scope of the application during the previous 12-month period or has, actively in good faith, solicited service within the scope of the application during such period;

"(B) it has pending before the Commission an application filed prior in time to the application being considered for substantially the same traffic; or

"(C) the Commission grants leave to intervene upon a showing of other interests that are not contrary to the transportation policy set forth in section 10101(a) of this title.

"(8) No motor contract carrier of passengers may protest an application to provide transportation filed under this subsection.

"(9) For purposes of this section, authority under this subsection to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation or any combination of air, rail, or water transportation.".

(c) Paragraph (4) of subsection (e) of section 10922 of title 49, United States Code, as redesignated by subsection (b) of this section, is amended to read as follows:

"(4) A certificate of a motor common carrier to transport passengers shall be deemed to include permissive authority to transport newspapers, baggage of passengers, express packages, or mail in the same motor vehicle with the passengers, or baggage of passengers in a separate motor vehicle.".

(d)(1) Section 10102 of title 49, United States Code, is amended by redesignating paragraphs (5) through (29), and any references thereto, as paragraphs (6) through (30), respectively, and by inserting after paragraph (4) the following new paragraph:

"(5) 'commuter bus operations' means short-haul regularly scheduled passenger service provided by motor vehicle in metropolitan and suburban areas, whether within or across the geo-

graphical boundaries of a State, and utilized primarily by passengers using reduced-fare, multiple-ride, or commutation tickets during morning and evening peak period operations.".

(2) Section 11711(f) of such title is amended by striking out "10102(10)(A)" and inserting in lieu thereof "10102(11)(A)".

(3) Section 250(a)(1) of the Internal Revenue Code of 1954 is amended by striking out "10102(18)" and inserting in lieu thereof "10102(19)".

(4)(A) Section 5201(5) of title 39, United States Code, is amended by striking out "10102(12)" and inserting in lieu thereof "10102(13)".

(B) Section 5201(6) of title 39, United States Code, is amended by striking out "10102(7)" and inserting in lieu thereof "10102(8) of title 49".

(e) Section 10322(a) of title 49, United States Code, is amended—

(1) by inserting "10708(f)," immediately after "10708(b),";

(2) by striking out "10922(h)(2)" and inserting in lieu thereof "10922(i)(2), 10922(i)(4)"; and

(3) by adding at the end thereof the following new sentence: "In addition, the deadlines set forth in this section do not apply to any application filed under section 10922(c)(2)(A) of this subtitle for authority to provide regular-route transportation entirely in one State as a motor common carrier of passengers.".

(f) Section 10521(b) of title 49, United States Code, is amended—

(1) in clause (1) by inserting "except as provided in sections 10922(c)(2), 10935, and 11501(e) of this title," immediately before "affect";

(2) in clause (2) by inserting "except as provided in sections 10922(c)(2) and 11501(e)," immediately before "authorize"; and

(3) in clause (3) by inserting "except as provided in section 10922(c)(2) of this title," immediately before "allow".

(g) Section 10922 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(l)(1) Except as provided in paragraph (2) of this subsection, the Commission, notwithstanding any other provision of law (other than such paragraph (2)), shall not issue any certificate to any motor common carrier, or any permit to any motor contract carrier, domiciled in any contiguous foreign country or owned or controlled by persons of any contiguous foreign country in the two-year period beginning on the effective date of this subsection. The President of the United States may extend, beyond such two-year period, such moratorium with respect to any contiguous foreign country or political subdivision thereof which substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision.

"(2) The President of the United States may remove or modify, in whole or in part, any moratorium imposed under paragraph (1) of this subsection on the issuance of certificates or permits if the President determines that such removal or modification is in the national interest and notifies, in writing, the Congress of such removal or modification before the date on which such removal or modification is to take effect. In any case in which such moratorium applies to a contiguous foreign country or political subdivision thereof which *substantially prohibits grants of authority to persons from the United States to provide transportation by motor vehicle for compensation in such foreign country or political subdivision, such removal or modification shall not take effect before the 60th day following the date on which the Congress is notified of such removal or modification.".*

RESTRICTION REMOVAL

SEC. 7. Section 10922(i) of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by adding at the end thereof the following new paragraphs:

"(3) On the effective date of this paragraph, a certificate to provide interstate transportation of passengers issued under this section shall be deemed to authorize (but not require)—

"(A) round-trip operations where only one-way authority exists; and

"(B) special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited to one or more points of origin in such political subdivision.

"(4) Upon request of any person issued a certificate to provide interstate transportation of passengers under this section, the Commission shall within 90 days remove any operating restriction imposed on the certificate in order to authorize interstate transportation to intermediate points on any route covered by the certificate unless the Commission finds, on the basis of evidence presented by a person objecting to the removal of such an operating restriction, that the resulting interstate transportation directly competes with a commuter bus operation and will have a significant adverse effect on commuter bus service in the area in which the competing service will be provided.".

MIXING OF REGULAR AND CHARTER PASSENGERS

SEC. 8. Subsection (j) of section 10922 of title 49, United States Code, as redesignated by section 6(b) of this Act, is amended by redesignating clauses (1) and (2) as clauses (A) and (B), respectively, by inserting "(1)" before "A person holding", and by adding at the end of such subsection the following new paragraphs:

"(2)(A) Subject to the provisions of this paragraph, a motor common carrier of passengers who has authority under this section to provide special or charter transportation of passengers and to provide regular-route transportation of passengers may transport the special or charter passengers in the same motor vehicle with regular-route passengers.

"(B) Subparagraph (A) of this paragraph shall only apply to transportation of passengers entirely in a State if the motor common carrier of passengers has authority under the laws of such State to provide within such State special or charter transportation of passengers and regular-route transportation of passengers and if the laws of such State and the certificate, permit, or other authority under which such carrier provides intrastate transportation in such State authorizes such carrier to transport special or charter passengers in the same motor vehicle with regular-route passengers.

"(C) Special or charter transportation of passengers may only be provided under subparagraph (A) of this paragraph in the same motor vehicle as regular-route transportation of passengers if the mixing of such passengers does not interfere with the obligation of the carrier to comply with section 11101 of this subtitle.

"(3) Subject to such regulations as the Commission may issue, a person who has authority under this section to provide charter transportation of passengers may transport groups of charter passengers in the same motor vehicle at the same time.".

RULE OF RATEMAKING

SEC. 9. (a) Section 10701(e) of title 49, United States Code, is amended by striking out "of property" each place it appears.

(b) Section 10704(b)(2)(B) of title 49, United States Code, is amended by striking out "of property".

RATE BUREAUS

SEC. 10. (a) Paragraphs (1) and (2) of section 10706(b) of title 49, United States Code, are amended by striking out "of property" each place it appears.

(b)(1) Section 10706(b)(3)(B)(i) of title 49, United States Code, is amended by striking out "and (D)" and inserting in lieu thereof ", (D), (E), and (F)".

(2) Section 10706(b)(3)(B)(iii) of title 49, United States Code, is amended by striking out "of property".

(3) Section 10706(b)(3)(D) of title 49, United States Code, is amended by inserting after the first sentence the following new sentence: "This subparagraph shall not apply to any single-line rate proposed by a motor common carrier of passengers.".

(4) Section 10706(b)(3) of title 49, United States Code, is amended by redesignating subparagraphs (E) and (F), and any references thereto, as subparagraphs (G) and (H), respectively, and by inserting after subparagraph (D) the following new subparagraphs:

> *"(E) On and after January 1, 1983, no agreement approved under this subsection may provide for discussion of or voting upon any single-line rate proposed by a motor common carrier of passengers. On and after January 1, 1984, no agreement approved under this subsection may provide for discussion of or voting upon any joint rate proposed by one or more motor common carriers of passengers. This subparagraph shall not apply to any rate applicable to special or charter transportation. This subparagraph and subparagraph (B)(i)(II) of this paragraph shall not apply to the following:*
>
> > *"(i) any general rate increase or decrease, broad change in tariff structure, or promotional or innovative fare change, as defined by the Commission and subject to such notice requirements as the Commission may specify by regulation, if discussion of such general increase or decrease is limited to industry average carrier costs and intermodal competitive factors and does not include discussion of individual markets or particular single-line rates or joint rates; and*
> >
> > *"(ii) publishing of tariffs, filing of independent actions for individual member carriers, providing of support serv-*

ices for members, and changes in rules or regulations which are of at least substantially general application throughout the area in which such changes will apply.

"(F) After the effective date of this subparagraph, no agreement approved under this subsection may provide for discussion of or voting upon any rate applicable to special or charter transportation proposed by a motor common carrier of passengers. This subparagraph shall not apply to publication of any such rate.".

(c) Subsection (b) of section 10706 of title 49, United States Code, is amended by adding at the end thereof the following new paragraph:

"(5) Notwithstanding any other provision of this subtitle (other than paragraph (3)(F) of this subsection, relating to special and charter transportation of passengers), before January 1, 1983, the Commission may not take any action which would, on the basis of the type of carrier service involved (including service by carriers singly or in combination with other carriers), result in the exclusion of one or more motor common carriers of passengers from discussion or voting under agreements authorized by this subsection on matters concerning rates, allowances, or divisions, except that before January 1, 1983, the Commission may issue regulations which take effect on or after January 1, 1983, to carry out the provisions of paragraph (3)(E) of this subsection.".

(d) The first sentence of section 10706(c) of title 49, United States Code, is amended by striking out "of property".

(e)(1) Paragraph (2) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96–296; 94 Stat. 806) is amended to read as follows:

"(2)(A) The Study Commission shall make (i) a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of property and upon the need or lack of need for continued antitrust immunity therefor, and (ii) a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for antitrust immunity therefor. The Study Commission may study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. Each such study shall estimate the impact of the elimination of such immunity upon rate levels and rate structures and describe the impact of the elimination of such immunity upon the Interstate Commerce Commission and its staff. Each such study shall give special consideration to the effect of the elimination of such immunity upon rural areas and small communities.

"(B) The Study Commission shall make a full and complete investigation and study of the impact of implementation of the Bus Regulatory Reform Act of 1982 on persons over the age of 60, including those who reside in rural areas and small communities. In particular, the Study Commission shall investigate and study the effect on such persons of the potential termination of routes as a result of implementation of the Bus Regulatory Reform Act of 1982. In making the study required by this subparagraph, the Study Commission shall provide for notice and the opportunity for interested parties to

comment, but need not provide for oral evidentiary hearings. In addition, the Study Commission shall consider the impact of both statutory and administrative regulatory reforms on the continuation and development of high quality intrastate motor bus services. Such study shall focus on the impact on existing firms currently providing service, some or all of which is conducted between points wholly within a single State. The Study Commission shall present its conclusions in its final report. Prior to such final report, if the Study Commission finds the existence of conditions that jeopardize the viability of continued intrastate services, it shall immediately notify the Congress and the Interstate Commerce Commission of its findings. If such notice is presented to the Interstate Commerce Commission, it shall give expedited treatment to whatever recommendations are made. The mandate to study the impact on intrastate bus transportation shall be an on-going one throughout the duration of the Study Commission's existence.".

(2) Paragraph (3) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended—

(A) by striking out "ten members" and inserting in lieu thereof "fourteen members";

(B) by striking out "and" at the end of clause (B); and

(C) by striking out the period at the end of such paragraph and inserting in lieu thereof "; and"; and

(D) by adding at the end of such paragraph the following:

"(D) four members of the public appointed by the President, one who is a motor common carrier of passengers receiving $3,000,000 or more per year in revenues from motor common carrier of passengers operations, one who is a motor common carrier of passengers receiving less than $3,000,000 per year in revenues from motor common carrier of passengers operations, and two who are not affiliated with the motor common carrier industry.

No member of the Study Commission who is appointed under clause (C) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of passengers, and no member of the Study Commission who is appointed under clause (D) of this paragraph shall vote on any matter before the Study Commission related to motor common carriers of property.".

(3) Paragraph (4) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96-296; 94 Stat. 806) is amended by striking out the first two sentences and inserting in lieu thereof the following:

"(4) The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of property not later than January 1, 1983, and its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984. The Study Commission shall, not later than January 1, 1984, submit to the President and the Congress the report required by paragraph (2)(B) of this subsection. Such reports shall include, but not be limited to, the findings and recommendations of the Study Commission. The Study Commission shall cease to exist 6 months after submission of the last of such reports.".

(4) Paragraph (12) of section 14(b) of the Motor Carrier Act of 1980 (Public Law 96–296; 94 Stat. 808) is amended by striking "$3,000,000" and inserting in lieu thereof "$4,000,000".

(f) Any organization established pursuant to an agreement entered into by motor common carriers of passengers and approved by the Commission prior to the effective date of this subsection under section 10706(c) of title 49, United States Code, may continue to function pursuant to such agreement until a new or amended agreement is finally disposed of by the Commission under section 10706 of title 49, United States Code, as amended by this section, so long as (1) such new or amended agreement is submitted to the Commission for approval within 120 days of such effective date, and (2) such organization complies with this section (including amendments made by this section and regulations issued under such amendments) during the period such new or amended agreement is being prepared, submitted to, and considered by the Commission.

ZONE OF RATE FREEDOM

SEC. 11. (a) Subsection (d) of section 10708 of title 49, United States Code, is amended by redesignating paragraph (4) of such subsection, and any references thereto, as paragraph (6) and inserting after paragraph (3) the following new paragraphs:

"(4) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any single-line rate proposed by a motor common carrier of passengers, or joint rate proposed by one or more such carriers, applicable to any transportation (other than special or charter transportation) on the grounds that such rate is unreasonable on the basis that it is too high or too low if—

> *"(A) the carrier or carriers notify the Commission that they wish to have the rate considered pursuant to this subsection; and*
>
> *"(B) the aggregate of increases and decreases in any such rate is not more than 10 percent above the rate in effect one year prior to the effective date of the proposed rate, nor more than 20 percent below the lesser of the rate in effect on the effective date of this paragraph (or, in case of any rate which the carrier or carriers first establish after such date for a service not provided by the carrier or carriers on such date, such rate on the date such rate first becomes effective), or the rate in effect one year prior to the effective date of the proposed rate.*

"(5) One year after the effective date of this paragraph, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 15 percent and 25 percent, respectively. Two years after the effective date, the first and second percentages specified in paragraph (4)(B) of this subsection shall change to 20 percent and 30 percent, respectively.".

(b) Paragraph (6) of section 10708(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting after the first sentence the following new sentence: "Evidence that any motor common carrier of passengers established pursuant to this subsection a joint or single-line rate applicable to transportation over any route which is the same as or similar to a

joint rate applicable to transportation over such route which such carrier together with one or more other motor common carriers of passengers established pursuant to this subsection shall not be in and of itself sufficient to establish a violation of any such antitrust law.".

(c) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsections:

"(e) Notwithstanding any other provision of this title, 3 years after the effective date of this subsection, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers on the grounds that such rate is unreasonable on the basis that it is too high or too low, unless the proposed rate is established collectively in accordance with the procedures of an agreement approved by the Commission under section 10706(b) of this title. In publishing and filing a tariff under section 10762 of this title, the carrier shall disclose whether such rate is the result of collective ratemaking procedures pursuant to an agreement approved by the Commission under section 10706(b) of this title.

"(f) Notwithstanding any other provision of this title, an interested party may file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under this section by a motor carrier of passengers. Any such complaint proceeding shall be finally determined by the Commission no later than 90 days after the filing of the complaint.".

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

SEC. 12. (a) Section 10708 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(g) Notwithstanding any other provision of this title, the Commission may not investigate, suspend, revise, or revoke any rate proposed by a motor common carrier of passengers applicable to special or charter transportation. Nothing in this subsection shall limit the Commission's authority to suspend and investigate proposed rates on the basis that such rates constitute predatory practices in contravention of the transportation policy set forth in section 10101(a) of this title.".

(b) Section 10762(c)(3) of title 49, United States Code, is amended—

(1) in the second sentence by inserting "and motor common carrier of passengers with respect to special or charter transportation" immediately after "a rail carrier"; and

(2) by adding at the end thereof the following new sentence: "In the case of a motor common carrier of passengers, a proposed rate change resulting in an increased rate or a new rate applicable to special or charter transportation shall not become effective for 30 days after the notice is published, and a proposed rate change resulting in a reduced rate applicable to special or charter transportation shall not become effective for 10 days after the notice is published.".

MOTOR CONTRACT CARRIERS

SEC. 13. (a) Section 10923(b)(2) of title 49, United States Code, is amended to read as follows:

"(2) The provisions of paragraph (2) of subsection (a) of this section shall not apply to applications under this section for authority to provide transportation as a motor contract carrier of passengers. The requirement that persons issued permits under this section as motor contract carriers of passengers be fit, willing, and able means safety fitness and proof of minimum financial responsibility under section 18 of the Bus Regulatory Reform Act of 1982.".

(b) Subsection (e) of section 10925 of title 49, United States Code, is amended—

(1) by striking out "of property" each place it appears;

(2) by striking out "section 10922(b)" each place it appears and inserting in lieu thereof "section 10922"; and

(3) in paragraph (2)—

(A) by striking out "transportation"; and

(B) by striking out "of the same property" and inserting in lieu thereof "the same type of transportation".

BROKERS

SEC. 14. (a) Subsection (a) of section 10924 of title 49, United States Code, is amended by striking out "passengers or".

(b) Subsection (e) of section 10924 of title 49, United States Code, is amended by striking out "of travelers and".

(c) Section 10924 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(f) The Commission may impose on brokers for motor carriers of passengers such requirements for bonds or insurance or both as the Commission determines are needed to protect passengers and carriers dealing with such brokers.".

(d) Section 10526(a) of title 49, United States Code, is amended—

(1) by striking out "or" at the end of paragraph (12);

(2) by striking out the period at the end of paragraph (13) and inserting in lieu thereof "; or"; and

(3) by adding at the end thereof the following new paragraph:

"(14) brokers for motor carriers of passengers, except as provided in section 10924(f) of this title.".

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

SEC. 15. Section 10928 of title 49, United States Code, is amended—

(1) in subsection (a) by striking out "motor carrier of passengers or" each place it appears;

(2) in subsection (b)(1) by striking out "of property" each place it appears; and

(3) in subsection (c)(1) by striking out "of property" each place it appears and by inserting immediately after "not more than 90 days" the following: "and, in addition, in the case of a motor carrier of passengers, the Commission may extend such authority for a period of more than 90 days but not more than 180 days if no other motor carrier of passengers is providing transportation to the place or in the area".

EXIT POLICY

SEC. 16. (a) Subchapter II of chapter 109 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 10935. Discontinuing bus transportation in one State

"(a) When a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of this subchapter, to provide transportation over any route to any point in such State has proposed to discontinue providing transportation over such route to such point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays) and the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over granting such discontinuance or reduction for permission to discontinue such intrastate transportation or to reduce its level of service to a level which is less than one trip per day (excluding Saturdays and Sundays) and the request has been denied (in whole or in part) or such department, agency, or instrumentality has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request, the carrier may petition the Commission for such permission.

"(b) When a petition is filed under subsection (a) of this section, the carrier shall certify that he has notified (1) the Governor of the State in which such transportation is provided, (2) the State authority having jurisdiction over granting discontinuances of transportation by motor common carriers of passengers and reductions in levels of service by such carriers, (3) local governments having jurisdiction over areas which would be affected if such petition is granted, and (4) such other interested persons as the Commission may specify by regulation.

"(c) Any person (including a department, agency, or instrumentality of a State or local government) may object to the Commission to the granting of permission to any motor common carrier of passengers to discontinue or reduce transportation under this section.

"(d) If no person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the Commission shall grant such permission at the end of such 20-day period.

"(e)(1)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that such discontinuance or reduction is not consistent with the public interest or that continuing the transporta-

tion, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted, on or before August 1, 1982, authority to provide interstate transportation of passengers.

"(2)(A) Subject to paragraph (3) of this subsection, if, within 20 days after a carrier files a petition for permission to discontinue providing intrastate transportation over any route to any point or to reduce its level of service over such route to such point to a level which is less than one trip per day (excluding Saturdays and Sundays), any person objects under subsection (c) of this section to the Commission to the granting of such permission, the Commission shall grant such permission unless the Commission finds, on the basis of evidence presented by the person objecting to the granting of such permission, that continuing the transportation, without the proposed discontinuance or reduction, will not constitute an unreasonable burden on interstate commerce. For the purposes of this paragraph, continuance of the transportation would not constitute an unreasonable burden on interstate commerce only if discontinuance or reduction of such transportation is not consistent with the public interest and the interstate and intrastate revenues from such service under reasonable pricing practices are not less than the variable costs of providing the transportation proposed to be discontinued or reduced.

"(B) This paragraph shall apply to intrastate transportation of passengers which is being provided by a motor common carrier of passengers on a route over which such carrier was granted after August 1, 1982, and before the effective date of this section, or is granted on or after such effective date, authority to provide interstate transportation of passengers.

"(3) The Commission shall only grant permission to a carrier to discontinue intrastate transportation over any route to any point under this subsection if such carrier has applied for authority to discontinue its interstate transportation over such route to such point under section 10925(b) of this subchapter and the Commission has granted or will grant such authority.

"(4) If any person objects under subsection (c) of this section to the granting of permission to discontinue or reduce transportation under this section within 20 days after the carrier files with the Commission the petition for such discontinuance or reduction, the carrier, within 15 days after the filing of such objection with the Commission, shall furnish to the Commission and to objecting persons—

> *"(A) an estimate of the annual subsidy required, if any, to continue the service;*
>
> *"(B) traffic, revenue, and other data necessary to determine the amount of annual financial assistance, if any, which would be required to continue the service; and*
>
> *"(C) such other information as the Commission may require by regulation.*

The Commission shall take final action upon such petition not later than 90 days after the date the carrier files such petition.

"(f) Before a discontinuance or reduction in level of service proposed in a petition filed by a carrier under subsection (a) of this section has become effective, the Commission may order the carrier to continue any part of the intrastate transportation in not to exceed the 165-day period beginning on the date the carrier files such petition with the Commission.

"(g)(1) In making a finding under subsection (e)(1) of this section, the Commission shall accord great weight to the extent to which interstate and intrastate revenues received for providing the transportation proposed to be discontinued or reduced are less than the variable costs of providing such transportation, including depreciation for revenue equipment. For purposes of the preceding sentence, the carrier filing a petition for permission to discontinue or reduce service shall have the burden of proving the amount of the interstate and intrastate revenues received for providing the transportation and the variable costs of providing the transportation.

"(2) In making a finding under subsection (e)(1) or (e)(2) of this section, the Commission shall consider, to the extent applicable, at least—

"(A) the national transportation policy of section 10101 of this title;

"(B) whether the motor common carrier of passengers has received an offer of, or is receiving, financial assistance to provide the transportation to be discontinued or reduced from a financially responsible person (including a governmental authority); and

"(C) in the case of a petition to discontinue transportation to any point, whether the transportation is the last motor carrier of passenger service to such point and whether a reasonable alternative to such service is available.

"(h) No State or political subdivision thereof and no interstate agency or other agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to discontinuance or reduction in the level of intrastate service by a motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title corresponding to an interstate service initiated pursuant to the provisions of section 10922(c)(4) of this title, except to the extent that notice of discontinuance or reduction in service, not in excess of 30 days, may be required.

"(i) This section shall not apply to any carrier owned or controlled by a State or local government.".

(b) The analysis for subchapter II of chapter 109 of title 49, United States Code, is amended by inserting

"10935. Discontinuing bus transportation in one State."

after

"10934. Household goods agents.".

(c) Section 10322(a) of title 49, United States Code, is amended by inserting "10935," after "10934(c),".

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

SEC. 17. (a)(1) Section 11501 of title 49, United States Code, is amended by redesignating subsection (e), and any references thereto, as subsection (f) and by inserting after subsection (d) the following new subsection:

"(e)(1) The Commission shall prescribe any rate, rule, or practice applicable to transportation provided entirely in one State by a motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title—

"(A) if the carrier has requested the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice for permission to establish such rate, rule, or practice and the request has been denied (in whole or in part) or the State authority has not acted finally (in whole or in part) on the request by the 120th day after the carrier made the request; and

"(B) if the Commission finds that the rate, rule, or practice in effect and applicable to such intrastate transportation causes unreasonable discrimination against or imposes an unreasonable burden on interstate or foreign commerce.

"(2) For purposes of paragraph (1)(B) of this subsection, there shall be a rebuttable presumption that—

"(A) any rate, rule, or practice applicable to transportation provided by a motor common carrier of passengers entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds—

"(i) that such rate, rule, or practice results in the carrier charging a rate for such transportation which is lower than the rate such carrier charges for comparable interstate transportation of passengers;

"(ii) on the basis of evidence presented by the carrier, that as a result of such rate, rule, or practice such carrier does not receive revenues from such transportation which exceed the variable costs of providing such transportation; or

"(iii) that the department, agency, or instrumentality of such State having jurisdiction over such rate, rule, or practice failed to act finally (in whole or in part) on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request; and

"(B) any rate applicable to transportation entirely in one State imposes an unreasonable burden on interstate commerce if the Commission finds that the most recent general rate increase applicable to transportation provided by motor common carriers of passengers in such State is less than the most recent general rate increase applicable to interstate transportation provided by motor common carriers of passengers under this subtitle.

"(3)(A) A motor common carrier of passengers must file an application with the Commission for prescription under this subsection of a rate, rule, or practice applicable to transportation provided entirely in one State by such carrier. When such application is filed with the Commission, the carrier shall certify that he has notified (i) the Governor of such State, (ii) the department, agency, or instrumental-

ity of such State which denied, or failed to take action on, the request of such carrier related to such rate, rule, or practice, and (iii) such other interested persons as the Commission may specify by regulation. The Commission shall take final action on any such application not later than 60 days after such application is filed with the Commission.

"(B) The Commission shall establish, by regulation, procedures for processing applications under this subsection.

"(4) This subsection shall not apply to any carrier owned or controlled by a State or local government.

"(5) No State or political subdivision thereof and no interstate agency or other political agency of two or more States shall enact or enforce any law, rule, regulation, standard, or other provision having the force and effect of law relating to scheduling of interstate or intrastate transportation provided by motor common carrier of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title on an authorized interstate route or relating to the implementation of any reduction in the rates for such transportation except to the extent that notice, not in excess of 30 days, of changes in schedules may be required. This paragraph shall not apply to intrastate commuter bus operations.

"(6)(A) No motor common carrier of passengers providing transportation subject to the jurisdiction of the Commission may charge or collect a rate for intrastate service provided on an authorized interstate route which constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title.

"(B) When the Commission decides, upon complaint by any person, that a reduction in a rate charged or collected by such a motor common carrier of passengers for intrastate service provided on an authorized interstate route constitutes a predatory practice in contravention of the transportation policy set forth in section 10101(a) of this title, the Commission shall prescribe the rate applicable to such service.".

(2) Subsection (f) of section 11501 of title 49, United States Code, as redesignated by paragraph (1) of this subsection, is amended by inserting "(1)" immediately after "take action" and by inserting ", or (2) with respect to a rate, rule, or practice of a motor common carrier of passengers, in accordance with the procedures established by the Commission under subsection (e)(3)(B) of this section" immediately after "a full hearing".

(b) Section 10322(a) of title 49, United States Code, is amended by inserting "or 11501(e)" immediately after "section 10934".

(c) The Interstate Commerce Commission, in consultation with each national association representing State departments, agencies, and instrumentalities having jurisdiction over motor common carrier transportation of passengers, shall cooperate with each such department, agency, or instrumentality of a State for the purpose of establishing standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers who provide transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of subtitle IV of title 49, United States Code, which are—

(1) to the extent feasible, uniform among the States; and

(2) consistent with the standards and procedures established by the Interstate Commerce Commission under such subtitle for regulation of interstate transportation provided by motor common carriers of passengers.

(d) It is the sense of Congress that each State should revise its standards and procedures (including timing requirements) for rates, rules, and practices applicable to intrastate transportation provided by motor common carriers of passengers to conform such standards and procedures to the standards and procedures for rates, rules, and practices applicable to interstate transportation provided by motor carriers of passengers not later than 2 years after the effective date of this section.

(e) Not later than 30 months after the effective date of this section, the Interstate Commerce Commission shall report to the Congress on the results of its efforts to establish uniform standards and procedures applicable to motor common carrier of passengers rates, rules, and practices.

FINANCIAL RESPONSIBILITY

SEC. 18. (a) The Secretary of Transportation shall establish regulations to require minimal levels of financial responsibility sufficient to satisfy liability amounts to be determined by the Secretary covering public liability and property damage for the transportation of passengers for hire by motor vehicle in the United States from a place in a State to a place in another State, from a place in a State to another place in such State through a place outside of such State, and between a place in a State and a place outside of the United States.

(b) The minimal level of financial responsibility established by the Secretary under subsection (a) of this section—

(1) for any vehicle with a seating capacity of 16 passengers or more shall not be less than $5,000,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $2,500,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service; and

(2) for any vehicle with a seating capacity of 15 passengers or less shall not be less than $1,500,000, except that the Secretary, by regulation, may reduce such amount (but not to an amount less than $750,000) for any class of such vehicles or operations for the 2-year period beginning on the effective date of the regulations issued under such subsection or any part of such period if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation service.

(c)(1) If, at the end of the one-year period beginning on the effective date of this section, the Secretary has not established regulations to require minimal levels of financial responsibility as required by subsection (a) of this section for any class of transporta-

tion of passengers, the levels of financial responsibility for such class of transportation shall be the $5,000,000 amount set forth in subsection (b)(1) of this section in the case of motor vehicles with a seating capacity of 16 passengers or more and the $1,500,000 amount set forth in subsection (b)(2) of this section in the case of motor vehicles having a seating capacity of 15 passengers or less, until such time as the Secretary, by regulation, changes such amount under this section.

(2) Notwithstanding the provisions of subsection (b) of this section, the Secretary may only make reductions in the $5,000,000 and $1,500,000 amounts set forth in such subsection for the two-year period beginning on the 366th day following the effective date of this section or any part of such period.

(d) Financial responsibility may be established under this section by any one or combination of the following methods acceptable to the Secretary: evidence of insurance, including high self-retention, guarantee, or surety bond. Any bond filed shall be issued by a bonding company authorized to do business in the United States. The Secretary shall establish, by regulation, methods and procedures to assure compliance with this section.

(e)(1) Any person (except an employee who acts without knowledge) who is determined by the Secretary, after notice and opportunity for a hearing, to have knowingly violated this section or a regulation issued under this section shall be liable to the United States for a civil penalty of not more than $10,000 for each violation, and if any such violation is a continuing one, each day of violation constitutes a separate offense. The amount of any such penalty shall be assessed by the Secretary by written notice. In determining the amount of such penalty, the Secretary shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the person found to have committed such violation, the degree of culpability, any history of prior offenses, ability to pay, effect on ability to continue to do business, and such other matters as justice may require.

(2) Such civil penalty may be recovered in an action brought by the Attorney General on behalf of the United States in the appropriate district court of the United States or, prior to referral to the Attorney General, such civil penalty may be compromised by the Secretary. The amount of such penalty, when finally determined (or agreed upon in compromise), may be deducted from any sums owed by the United States to the person charged. All penalties collected under this subsection shall be deposited in the Treasury of the United States as miscellaneous receipts.

(f) This section shall not apply—

(1) to a motor vehicle transporting only school children and teachers to or from school;

(2) to a motor vehicle providing taxicab service and having a seating capacity of less than 7 passengers and not operated on a regular route or between specified points; and

(3) to a motor vehicle carrying less than 16 individuals in a single, daily round trip to commute to and from work.

(g) For purposes of this section, the term—

(1) "Secretary" means the Secretary of Transportation; and

(2) "State" means a State of the United States and the District of Columbia.

(h) Section 10927(a)(1) of title 49, United States Code, is amended by inserting immediately after "Motor Carrier Act of 1980" the following: ", in the case of a motor carrier of property, or section 18 of the Bus Regulatory Reform Act of 1982, in the case of a motor carrier of passengers".

SECURITIES

SEC. 19. (a) Section 11302 of title 49, United States Code, and the item relating to such section in the analysis for chapter 113 of such title, are repealed.

(b) Section 11348 of title 49, United States Code, is amended by striking out "11302," each place it appears.

(c) Section 11911(a) of title 49, United States Code, is amended by striking out "or of a person to which that section is made applicable by section 11302(a) of this title".

(d) Section 3(a)(6) of the Securities Act of 1933 (15 U.S.C. 77c(a)(6)) is amended by striking out "Any security issued by a motor carrier the issuance of which is subject to the provisions of section 214 of the Interstate Commerce Act, or any" and by inserting in lieu thereof "Any".

TAX DISCRIMINATION

SEC. 20. (a) Section 11503a(a)(3) of title 49, United States Code, is amended by striking out "of property".

(b) Section 11503a(c)(1) of title 49, United States Code, is amended by striking out "other commercial and industrial property" and inserting in lieu thereof "such other property".

MERGER PROCEDURE

SEC. 21. (a)(1) Section 11341(a) of title 49, United States Code, is amended by inserting "or exempted by" immediately after "approved by".

(2) The third sentence of section 11341(a) of title 49, United States Code, is amended by inserting "approved or exempted" immediately after "participating in that".

(b) Section 11343 of title 49, United States Code, is amended by adding at the end thereof the following new subsection:

"(e)(1) Notwithstanding any provisions of this title, the Interstate Commerce Commission, in a matter related to a motor carrier of property providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title, may exempt a person, class of persons, transaction, or class of transactions from the merger, consolidation, and acquisition of control provisions of this subchapter if the Commission finds that—

"(A) the application of such provisions is not necessary to carry out the transportation policy of section 10101 of this title; and

"(B) either (i) the transaction is of limited scope, or (ii) the application of such provisions is not needed to protect shippers from the abuse of market power.

"(2) At least 60 days before any transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter may take effect, each carrier intending to participate in such transaction shall file with the Commission a notice of its intention to participate in such transaction and shall give public notice of such intention. The Commission shall prescribe the information to be contained in such notices, including the nature and scope of the transaction.

"(3) The Commission, on its own initiative or on complaint, may revoke an exemption granted under this subsection, to the extent it specifies, when it finds that application of the provisions of this section to the person, class of persons, or transportation is necessary to carry out the transportation policy of section 10101 of this title.

"(4) If the Commission, on its own initiative, finds that employees of any carrier intending to participate in a transaction exempt under this subsection from the merger, consolidation, and acquisition of control provisions of this subchapter are or will be adversely affected by such transaction or if employees of such carrier adversely affected by such transaction file a complaint concerning such transaction with the Commission, the Commission shall revoke such exemption to the extent the Commission deems necessary to review and address the adverse effects on such employees.".

(c) The heading of section 11345a of title 49, United States Code, is amended to read as follows:

"§ 11345a. Consolidation, merger, and acquisition of control: motor carrier procedure".

(d) Subsection (a) of such section is amended by striking out "of property".

(e) The item relating to section 11345a in the analysis for subchapter III of chapter 113 of title 49, United States Code, is amended to read as follows:

"11345a. Consolidation, merger, and acquisition of control: motor carrier procedure.".

(f) Section 11344(b) of title 49, United States Code, is amended by redesignating paragraphs (1), (2), (3), (4), and (5) (and any references thereto) as subparagraphs (A), (B), (C), (D), and (E), respectively, by inserting "(1)" immediately before "In a proceeding", and by adding at the end thereof the following new paragraph:

"(2) In a proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of this title, the Commission shall consider at least the following:

"(A) the effect of the proposed transaction on the adequacy of transportation to the public.

"(B) the effect on the public interest of including, or failing to include, other rail carriers in the area involved in the proposed transaction.

"(C) the total fixed charges that result from the proposed transaction.

"(D) the interest of carrier employees affected by the proposed transaction.".

(e) Section 11344(d) of title 49, United States Code, is amended by adding at the end thereof the following new sentence: "The provisions of this subsection do not apply to any proceeding under this section which involves only carriers of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title.".

SAFETY ENFORCEMENT

SEC. 22. (a) Section 10925(d) of title 49, United States Code, is amended by redesignating paragraph (2) (and any references thereto) as paragraph (3) and by inserting after paragraph (1) the following new paragraph:

"(2) Without regard to subchapter II of chapter 103 of this title and subchapter II of chapter 5 of title 5, upon petition by the Secretary of Transportation, the Commission may suspend a certificate or permit of a motor carrier of passengers if the Commission finds that such carrier has been conducting unsafe operations which are an imminent hazard to public health or property.".

(b) Paragraph (3) of section 10925(d) of title 49, United States Code, as redesignated by subsection (a) of this section, is amended by inserting immediately before the period at the end thereof the following: "or, in the case of a suspension under paragraph (2) of this subsection, until the Commission revokes such suspension".

ILLEGAL OPERATIONS

SEC. 23. Section 11901(g) of title 49, United States Code, is amended by inserting immediately before the period at the end of the first sentence the following: "; except that, in the case of a person who does not have authority under this subtitle to provide transportation of passengers, or an officer, agent, or employee of such person, that does not comply with section 10921 of this title with respect to providing transportation of passengers, the amount of the civil penalty shall not be more than $1,000 for each violation and $500 for each additional day the violation continues".

ADMINISTRATIVE ASSISTANCE

SEC. 24. Section 10321(b) of title 49, United States Code, is amended—

(1) by striking out "and" at the end of clause (2);

(2) by striking out the period at the end of such section and inserting in lieu thereof "; and"; and

(3) by adding at the end thereof the following new clause:

"(4) consistent with the transportation policy of section 10101 of this title, provide administrative assistance to small motor common carriers of passengers and local governments in preparing for proceedings under sections 10922(c)(2), 10935, and 11501(e) of this title.".

STUDY OF CITIZEN BAND RADIOS ON BUSES

SEC. 25. (a) The Secretary of Transportation shall undertake to enter into appropriate arrangements with the National Academy of Sciences to conduct a study of the use of citizen band radios on *motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, by the operators of such vehicles. Such study shall determine, at a minimum, the following:*

(1) the effect on safety if such operators are authorized to use such radios; and

(2) the effect on safety, health, and convenience of the passengers of such vehicles if such operators are authorized to use such radios.

(b) The Secretary of Transportation shall request the National Academy of Sciences to submit to the Secretary and the Congress, within one year after entering into arrangements with the National Academy of Sciences for conducting the study under subsection (a) of this section, a report on the results of such study along with its recommendations concerning whether operators of motor vehicles providing transportation of passengers should be allowed to use citizen band radios. The Secretary shall furnish to such Academy, at its request, any information which such Academy deems necessary for the purpose of conducting such study.

(c) Not later than 60 days after the National Academy of Sciences submits its report to the Secretary of Transportation under subsection (b) of this section, the Secretary of Transportation shall initiate a rulemaking proceeding to determine whether operators of motor vehicles providing transportation of passengers subject to the jurisdiction of the Interstate Commerce Commission under subchapter II of chapter 105 of title 49, United States Code, should be allowed to use citizen band radios in such vehicles. In making such determination, the Secretary of Transportation shall give substantial weight to the recommendations and conclusions of the National Academy of Sciences. Such rulemaking proceeding shall be completed not later than 120 days after such proceeding is commenced. If the Secretary issues a rule or regulation which recommends that operators of such vehicles be allowed to install temporarily and operate citizen band radios in such vehicles, the Secretary of Transportation shall issue regulations establishing guidelines for the use of such radios in such vehicles in order to ensure that the public safety is adequately protected.

(d)(1) Subchapter I of chapter 111 of title 49, United States Code, is amended by adding at the end thereof the following new section:

"§ 11111. Use of citizen band radios on buses

"(a)(1) A motor carrier of passengers providing transportation subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall allow the operator of any motor vehicle providing such transportation to temporarily install and operate a citizen band radio in such vehicle if the Secretary of Transportation issues a rule or regulation which recommends that operators of such vehicles be allowed to temporarily install and operate such radios in such vehicles.

"(2) Citizen band radios installed and operated in motor vehicles providing transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of this title shall be installed and operated in accordance with the guidelines

established by the Secretary of Transportation under section 25(c) of the Bus Regulatory Reform Act of 1982.

"(b) The Commission shall issue such regulations as it considers necessary to carry out this section.".

(2) The analysis for subchapter I of chapter 111 of title 49, United States Code, is amended by inserting

"11111. Use of citizen band radios on buses."

after

"11110. Household goods carrier operations.".

(e) Section 11702(a)(2) of title 49, United States Code, is amended by inserting "or 11111" after "11109".

(f) This section shall not be construed to provide new spending authority within the meaning of section 401(c)(2)(A) of the Congressional Budget Act of 1974.

BUS TERMINAL STUDY

SEC. 26. (a) The Secretary of Transportation and the Interstate Commerce Commission shall conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in section 10101 of title 49, United States Code. A report on the results of such investigation and study, including legislative recommendations, shall be submitted to the President and Congress not later than December 31, 1983.

(b) The report under this section shall include an analysis of at least the following:

(1) the pattern of ownership of bus terminals, including public and private ownership;

(2) the desirability of terminals for more than one mode of transportation and their impact on urban development;

(3) the desirability of governmental assistance in the construction of nonurban bus terminals.

EMPLOYEE PROTECTION

SEC. 27. (a)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of priority reemployment, in his or her occupational specialty, by such carrier at such time as such carrier is hiring additional employees.

(2) Any motor common carrier of passengers hiring additional employees shall have a duty to hire an individual eligible for protection under this section, in his or her occupational specialty, before hiring any other individual if such individual—

(A) was terminated previously by such carrier;

(B) has applied for a vacant position for which such carrier is accepting applications; and

(C) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(b)(1) Each individual who is eligible for protection under this section and whose employment is terminated by a motor common carrier of passengers (other than for cause) prior to the last day of the 10-year period beginning on the date of enactment of this Act shall have a right of consideration for employment, in his or her occupational specialty, by any other motor common carrier of passengers who is hiring additional employees.

(2) Each motor common carrier of passengers who is hiring additional employees shall have a duty to consider for employment, in his or her occupational specialty, an individual who is eligible for protection under this section if such individual—

(A) has applied for a vacant position for which such carrier is accepting applications; and

(B) at the time the application is filed, has notified such carrier that he or she is eligible for protection under this section.

(c) An individual (other than a member of a board of directors or an officer of a corporation) who was employed by a motor common carrier of passengers for the 2-year period ending on the date of enactment of this Act shall be eligible for protection under this section if, upon application of such individual, the Commission determines that the employment of such individual has been terminated by a motor common carrier of passengers having intrastate authority under the laws of a State, and interstate authority under a certificate issued under section 10922 of title 49, United States Code, to provide transportation over any route to any point in such State as a result of such carrier—

(1) discontinuing (A) interstate service over such route under section 10925(b) of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State;

(2) reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 10935 of such title, or (ii) under the laws of such State; or

(3) substantially reducing (A) interstate service over such route under subtitle IV of such title, and (B) intrastate service over such route (i) under section 11501(e) of such title, or (ii) under the laws of such State.

In a proceeding to determine whether an individual is eligible for protection under this section, it shall be the obligation of the individual whose employment has been terminated by a motor common carrier of passengers to identify to the Commission the discontinuance or reduction which such individual alleges resulted in such termination and to specify the pertinent facts; and it shall be the obligation of any carrier contesting the eligibility of the individual for protection under this section to prove that the discontinuance or reduction was not a contributing factor causing such termination.

(d) The Commission shall establish, maintain, and periodically publish a comprehensive list of jobs available with class I motor carriers of passengers. Such list shall include that information and detail, such as job descriptions and required skills, the Commission deems relevant and necessary. In addition to publishing the list, the Commission shall make every effort to assist individuals eligible for protection under this section in finding other available employment.

The Commission may require each class I motor carrier of passengers to file with the Commission the reports, data, and other information necessary to fulfill the duties of the Commission under this subsection.

(e) For the purposes of this section:

(1) A motor common carrier of passengers shall not be considered to be hiring additional employees when it recalls any of its own furloughed employees.

(2) An individual who is furloughed by a motor common carrier of passengers and who still has a right of recall by such carrier shall not be considered to be terminated.

(3) The term "Commission" means the Interstate Commerce Commission.

(4) The term "motor common carrier of passengers" means a person who has authority under section 10922 of title 49, United States Code, to provide transportation of passengers subject to the jurisdiction of the Commission under subchapter II of chapter 105 of such title.

(5) The term "class I motor carrier of passengers" means a motor common carrier of passengers having annual gross revenues from motor common carrier of passengers operations in excess of $3,000,000.

(f) Nothing in this section shall be construed to affect (1) an affirmative action plan or a hiring plan designed to eliminate discrimination, that is required by Federal or State statute, regulation, or Executive order, or by the order of a Federal court or agency, or (2) a permissible voluntary affirmative action plan.

(g) This section shall not apply (1) to any carrier owned or controlled by a State or local government, and (2) to any periodic discontinuance of or reduction in motor carrier of passenger service which is seasonal in nature.

(h) The Commission shall issue such rules and regulations as are necessary to carry out this section. Initial rules and regulations shall be promulgated within 6 months after the effective date of this section.

(i) The provisions of this section shall terminate on the last day of the 12-year period beginning on the effective date of this section.

PUBLICATION OF COMMISSION ACTIONS

SEC. 28. (a) Section 10322(b)(3) of title 49, United States Code, is amended by striking "in the Federal Register".

(b) Section 10328(b) of title 49, United States Code, is amended—

(1) by inserting "(1)" immediately after "(b)";

(2) by amending paragraph (1), as so redesignated, by striking out "that is, or is proposed to be, provided in a State" and by striking out all after "interested persons" and inserting in lieu thereof a period; and

(3) by adding at the end thereof the following:

"(2) The Commission may adopt, after a rulemaking proceeding in accordance with the provisions of section 553 of title 5, a special procedure for providing interested parties reasonable notice of applications to provide transportation as a motor or water common or contract carrier or freight forwarder, or to be a broker for transpor-

tation, under sections 10922, 10923, 10924, and 10928 of this title, or applications for removal of operating restrictions under section 10922 of this title. The special procedure may consist of printing and distributing to subscribers an independent publication to provide notice of such applications, if the Commission finds, as a result of its rulemaking proceedings, that such method of providing notice would not be unduly burdensome to the public.".

GENDER-NEUTRAL TERMINOLOGY

Sec. 29. (a) Section 10722(c)(4) of title 49, United States Code, is amended by striking out "newsboy" and inserting in lieu thereof "newspaper carrier".

(b) Section 10722(d)(1)(B) of title 49, United States Code, is amended by striking out "widow" and inserting in lieu thereof "surviving spouse".

(c) Section 10723(b)(1)(C) of title 49, United States Code, is amended to read as follows:

> *"(C) an individual traveling on behalf of a nonprofit organization which provides recreational, housing or other services and benefits for the general welfare of employees of common carriers.".*

(d) Section 11504(c)(3) of title 49, United States Code, is amended by striking out "seaman" and inserting in lieu thereof "sailor".

(e) Section 11905 of title 49, United States Code, is amended by striking out "linemen" and inserting in lieu thereof "line maintainers".

EXEMPT MOTOR CARRIER TRANSPORTATION

Sec. 30. Section 10525 of title 49, United States Code, is amended—

> *(1) by redesignating subsection (e) as subsection (f); and*
>
> *(2) by inserting after subsection (d) the following new subsection:*

"(e) Notwithstanding the provisions of this section, the Commission has no jurisdiction under this subchapter over transportation, except transportation of household goods, by a motor carrier operating solely within the State of Hawaii. The State of Hawaii may regulate transportation exempt from the jurisdiction of the Commission under this subsection and, to the extent provided by a motor carrier operating solely within the State of Hawaii, transportation exempt from the jurisdiction of the Commission under section 10523 of this title.".

EFFECTIVE DATE

Sec. 31. (a) Except as provided in subsections (b) and (c) of this section, this Act shall take effect on the 60th day after the date of enactment of this Act.

(b) The amendment made by section 10(e)(4) of this Act shall take effect on October 1, 1982.

(c) The provisions of sections 6(g) and 30 of this Act shall take effect on the date of enactment of this Act.

And the Senate agree to the same.

James J. Howard,
Glenn M. Anderson,
Peter W. Rodino, Jr.,
Don Clausen,
Bud Shuster,
Managers on the Part of the House.

Bob Packwood,
John C. Danforth,
Howard W. Cannon,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3663) to amend subtitle IV of title 49, United States Code, to provide for more effective regulation of motor carriers of passengers, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

SHORT TITLE

House bill

The short title of the bill is the "Bus Regulatory Reform Act of 1981".

Senate amendment

The short title of the bill is the "Bus Regulatory Reform Act of 1982".

Conference substitute

Same as Senate amendment.

PURPOSE OF THE BILL

House bill

The purpose of the bill is to reduce unnecessary and burdensome government regulation.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

CONGRESSIONAL FINDINGS

House bill

This House bill makes findings with respect to regulation of the intercity bus industry.

The findings highlight the importance of a financially sound bus industry and the need for that industry to meet the transportation needs of the citizens of this country. The findings set forth the need for a change in the regulatory scheme and that the new policy should be regarded closely and be implemented by the Interstate Commerce Commission (I.C.C.) consistent with Congressional policy. Finally, the Congress finds that some regulatory practices by the States have tended in certain circumstances to impair the industry to the detriment of the public and that procedures need to be established to minimize those effects.

Senate amendment

The findings highlight the importance of a sound and competitive bus industry and the need for that industry to meet the transportation needs of the citizens of this country. It is emphasized that the existing Federal and State regulatory structure has tended to impair, in certain circumstances, the ability of carriers to enter markets and to maximize use of equipment and opportunities to expand. The Committee finds that this overly protective regulation has caused diminished price and service competition. The ICC is given explicit direction to reduce regulation and to do everything possible to promote competition in the industry. It is through greater competition and reduced regulation that the goals of the national transportation policy can be best achieved.

Conference substitute

Same as the Senate amendment.

CONGRESSIONAL OVERSIGHT

House bill

The House bill directs the appropriate Congressional authorizing committees to hold periodic oversight hearings to assure that the Act is being implemented according to Congressional intent and purpose. The committees are to hold hearings no less than annually until July 1, 1985.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

NATIONAL TRANSPORTATION POLICY

House bill

The House bill amends the national transportation policy by modifying section 10101(a) of title 49, United States Code, to incorporate motor carriers of passengers into the provision by the Motor

Carrier Act of 1980 for motor carriers of property and to include a new subparagraph (3) applicable to motor carriers of passengers. The emphasis of the three additional goals added to the national transportation policy for passenger carriers is the continued development of a cooperative and reasonable approach to Federal and State regulation of interstate bus carriers.

The guidelines provide for the Interstate Commerce Commission to cooperate with the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of the subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and to ensure that Federal reform initiatives enacted by the Bus Regulatory Reform Act of 1981 are not nullified by State regulatory actions.

Senate amendment

The Senate amendment amends the national transportation policy by modifying subsection (a) of section 10101 of title 49, United States Code, to incorporate motor carriers of passengers into the provision added by the Motor Carrier Act of 1980 for motor carriers of property, with some modification. This language states that it is the Federal policy with respect to all motor carriers to promote competitive and efficient transportation services in order to meet a number of important goals.

Specifically, the Senate amendment states nine guidelines for the regulation of all motor carriers. These include: meeting the needs of shippers, receivers, passengers, and consumers; allowing a variety of quality and price options; allowing the most productive use of equipment and energy resources; enabling efficient and well-managed carriers to earn adequate profits, attract capital, and maintain fair wages and working conditions; providing and maintaining service to small communities and small shippers and intrastate bus services; providing and maintaining commuter bus operations; improving and maintaining a sound, safe, and competitive privately-owned motor carrier system; promoting greater participation by minorities in the motor carrier system; and promoting intermodal transportation.

Three additional guidelines are added with respect to regulating transportation by motor carrier of passengers. The ICC is directed to cooperate with the States on transportation matters for the purpose of encouraging the States to exercise intrastate regulatory jurisdiction in accordance with the objectives of this subtitle; to provide Federal procedures which ensure that intrastate regulation is exercised in accordance with this subtitle; and to ensure that Federal reform initiatives contained in this Act are not nullified by State regulatory actions.

Conference substitute

Same as the Senate amendment.

MOTOR CARRIER OF PASSENGER ENTRY POLICY

House bill

The House bill adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers. In addition, the new subsection would govern applications of motor common carriers of passengers for authority to provide intrastate transportation in certain situations.

Subsection 10922(c) retains the test requiring the Commission to find that the applicant is fit, willing, and able. However, it revises the public convenience and necessity requirement. Specifically, it directs the Commission to grant the application unless it finds, on the basis of evidence presented by any person protesting the application, that the transportation to be provided would not be consistent with the public interest.

This entry standard will apply to all types of service offered by motor common carriers of passengers, including regular route service, charter service, special service, or any combination thereof.

Paragraph (3) of proposed subsection 10922(c) prohibits the Commission from granting an application if a protesting carrier demonstrates that issuance of the certificate would impair, contrary to the public interest, its ability to provide a substantial portion of its regular route passenger service.

Paragraph (4) of new subsection 10922(c) requires the Commission, to the extent raised by a protestant, to consider the national transportation policy, the effect on small community service and commuter bus service, the effect of transportation-related subsidies (in charter and special operations cases), and the effect of multiple applications, in making any public interest determinations.

Paragraph (5) of proposed subsection 10922(c) eliminates the required finding on public interest for particular types of proposed service. Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a direct substitute (service in the same corridor, generally along the same route) for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail or air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (6) of new subsection 10922(c) assures that applications will be decided on a case-by-case basis by prohibiting master certification. This applies to findings related to fitness as well as to public interest.

Paragraph (7) of new section 10922(c) modifies the fitness standard by directing the Commission to look at operational and financial fitness, as well as safety fitness.

Paragraph (8) of proposed section 10922(c) lists the qualifications for protesting an application and are the same as those enacted for motor common carriers of property in the Motor Carrier Act of 1980.

Paragraph (9) of new section 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (10) of new section 10922(c) states that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one-way service if such one-way service is provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation.

Paragraph (2) of the proposed section 10922(c) provides for the preemption of State law to authorize the provision of intrastate transportation on a route over which a bus carrier has authority to provide interstate transportation. The paragraph requires that the interstate carrier apply first to the State for the removal of the closed door restriction. If the State denies the request or fails to act within a specified time frame, then the carrier can petition the Commission to preempt the State decision. States would be required to act on a carrier request within 150 days for the first two years after the effective date of the Bus Regulatory Reform Act and within 120 days thereafter.

If the State denies the request or fails to act (or State law prohibits entry), the interstate carrier can petition the Commission for relief. The Commission's authority to grant relief is limited to granting authority to provide regular route intrastate transportation of passengers, including incidental authority to transport newspapers, baggage or passengers, express or mail in the same motor vehicle with the passengers. The Commission does not have the authority to authorize intrastate charter service or special operations.

In order for the Commission to grant relief, it must find (1) that the applicant is fit, willing, and able, (2) that the intrastate transportation to be provided is along the carrier's interstate route, and (3) the applicant went to the State first and the State denied the request or failed to act. If these three requirements are met, the Commission can preempt the State and authorize the interstate carrier to provide the intrastate regular route transportation.

However, the Commission cannot preempt the State decision if it finds, on the basis of evidence presented by the State or any other protestant, that the grant of authority is not consistent with the public interest, or that the denial or failure to act by the State is not an unreasonable burden on interstate commerce.

In determining whether the grant of authority is not consistent with the public interest, the Commission can consider, under paragraph (3) of proposed subsection 10922(c), whether a substantial portion of the operation of an existing intrastate carrier would be impaired contrary to the public interest.

The Commission is required to act on petitions of interstate carriers to preempt State actions within 90 days from the time the petition is filed.

Any intrastate transportation authorized by issuance of a certificate under this paragraph shall be deemed to be transportation subject to the jurisdiction of the Commission. Upon issuance of the certificate, the carrier should file rates and comply with practices in the same manner as for a regular interstate operating certificate not later than 30 days after the carrier begins providing the service. The carrier would have to take all actions necessary to establish under the laws of such States, rates and rules applicable to such transportation. Federally established rates and practices shall remain in effect until permanent rules, rates, and practices are established under the law of the State. The Commission would retain jurisdiction for suspending and revocation of certificates.

In addition, the preemption provision applies to pending applications which are not acted upon by the 120th day after the effective date of the Act and to any denial which is administratively final after January 1, 1981.

And, finally, the bill adds a new subsection (l) to section 10922. New subsection (l) gives the Commission the discretion to deny an application of a Mexican or Canadian company if the Commission determines that Mexico or Canada, or the pertinent governmental entity thereof, does not treat American companies at least as favorably as it treats its own companies. This determination may extend beyond an examination of the foreign government's granting of operating authority. Moreover, the Commission would be prohibited from issuing a certificate to a Mexican or Canadian firm if it determined that Mexico or Canada did not grant authority to American firms. This applies to both trucking and bus companies.

Senate amendment

The Senate amendment adds a new subsection to section 10922 of title 49, United States Code, to govern applications for authority to operate as motor common carriers of passengers.

New subsection 10922(c) requires the ICC to find that the applicant is fit, willing, and able. The burden of proof in this case is on the carrier applying for the operating authority.

For charter or special operations service to be provided by privately-funded companies, the ICC is required only to find that the applicant is fit, willing, and able. For regular route service or any service to be provided by a carrier receiving government financial assistance, the ICC is to issue a common carrier certificate if it finds the person fit, willing, and able, unless the ICC finds, on the basis of evidence presented by opponents, that the proposed transportation is not consistent with the public interest.

The amendment makes two other changes in the entry procedure. First, the new evidentiary standard ("consistent with" rather than "required by") will expedite the substantive analysis of the application. Second, the provision creates a presumption that the grant of the application is consistent with the public interest. This means that the burden will be on any protestant to provide sufficient evidence to negate the presumption of consistency.

The Senate amendment also substantially eases intrastate entry for interstate carriers. Paragraph (2)(A) and (B) are intended to remove the problem of "closed door" intrastate policies on interstate operations.

For entry authority to serve intrastate points on existing interstate routes, the Commission is to allow entry unless it finds that the intrastate service would directly compete with a commuter bus operation and would have a significant adverse effect on commuter bus service in the area in which the competing service will be performed. For intrastate entry authority to serve points on new interstate routes, the ICC is to allow entry unless it finds the transportation to be authorized is not consistent with the public interest. The burden of proof is on the protestant. The bill also allows immediate entry for interstate carriers to provide pick-up and delivery express service within the commercial zone of each city reserved by the carrier.

The terms "commuter bus operations" and "commuter bus service" are synonymous. The definition of "commuter bus operations" is set forth. The new definition of "commuter bus operations" includes short-haul regularly scheduled passenger service utilized primarily by passengers using reduced fare, multiple-ride, or commutation tickets during morning and evening peak period operations.

The ICC is to take final action on these intrastate applications under paragraph (2)(A) within 90 days. Any intrastate transportation authorized by the ICC shall be subject to ICC jurisdiction. Upon issuance of such certificate, the carrier is to establish initial rates, rules, and practices applicable to such transportation to the same extent and in the same manner as would a carrier subject to ICC jurisdiction. Any such initial rate, rule, or practice related to this transportation shall be subject to Federal regulations as if it were related to interstate transportation.

Within 30 days after a common carrier begins providing intrastate transportation approved by the ICC, the carrier is to take all action necessary under the laws of the State to establish rates, rules, and practices applicable to such transportation. Intrastate transportation authorized by the ICC shall remain subject to ICC jurisdiction and initial rates, rules, and practices established by the carrier shall remain in effect until permanent rates, rules, and practices are established under the laws of the State. The ICC can suspend or revoke intrastate transportation it has authorized.

Paragraph (3) of new subsection 10922(c) specifies the factors to be considered by the ICC in making the public interest determination. The ICC is to consider, to the extent applicable, the national transportation policy, the value of competition to the traveling and shipping public, the effect on small community service, and whether issuance of the certificate would impair the ability of any other motor common carrier of passengers to provide a substantial portion of the service it provides over its entire regular-route system.

Paragraph (4) of new subsection 10922(c) eliminates the required finding on public interest for particular types of proposed service.

Three types of proposed service would be subject to a fitness-only test:

(1) interstate service to any community not regularly served by a motor common carrier of passengers;

(2) interstate service which will be a substitute for discontinued rail or commercial air passenger service if the discontinuance resulted in the community not having any rail and commercial air passenger service; and

(3) interstate service to any community with respect to which the only motor common carrier of passengers serving such community has requested permission to discontinue service or to reduce service to less than one trip daily (except Saturday and Sunday).

Paragraph (5) of new subsection 10922(c) prohibits master certification relating to fitness and public interest findings. Applications will be decided by the ICC on a case-by-case basis.

Paragraph (6) of new section 10922(c) modifies the fitness standard by directing the ICC to look at safety fitness and an applicant's proof of insurance, subject to the minimum insurance standards of this act.

Paragraph (7) of new subsection 10922(c) lists the qualifications for protesting an entry application or a request to remove operating restrictions under section 10922(i)(4) of this title. These qualifications are the same as those enacted for motor common carriers of property in the Motor Carrier Act of 1980. It should also be noted that under subparagraph (c) any carrier may protest on the grounds of safety fitness.

Paragraph (8) of new subsection 10922(c) prohibits motor contract carriers of passengers from protesting applications of motor common carriers of passengers.

Paragraph (9) of new subsection 10922(c) clarifies existing law by expressly stating that authority to provide special or charter transportation of passengers by motor vehicle includes authority to provide such transportation as round-trip service and as one way service if such one-way service may be provided as part of a round-trip movement involving the same passengers and air, rail, or water transportation. This provision recognizes developing intermodal transportation systems. The act also redefines common carrier authorities in paragraph (4) of section 10922(e), as redesignated. The act includes in operating certificates permissive authority to transport newspapers, passenger baggage, express, or mail in the same vehicle with passengers baggage in a separate vehicle.

The Senate amendment also amends section 10922 to add a new subsection (l) to direct the Commission not to grant authority to motor carriers (truck carriers and bus carriers—common contract carriers) owned or controlled by Canadians or Mexicans in the 2-year period after enactment. The U.S. Trade Representative, in consultation with the Secretaries of Transportation and State, may remove or modify such restriction if it is in the national interest.

Conference substitute

Same as Senate amendment (other than minor technical changes); except that with respect to the moratorium on entry of Canadian and Mexican motor carriers (1) the Commission, during the two-year period after enactment, is directed not to grant authority to motor carriers domiciled in Canada or Mexico as well as motor carriers owned or controlled by Canadians or Mexicans; (2) the President may extend such moratorium beyond such two-year period with respect to Canada or Mexico or both if such country or countries are substantially prohibiting American carriers from receiving authority to provide motor carrier transportation; and (3) the President may remove or modify a moratorium under clause (1) or (2) if he finds it is in the national interest and first notifies the Congress. In those situations where Canada or Mexico is substantially prohibiting American carriers from receiving motor carrier authority, the effective date of a removal or modification of a moratorium applying to such country is delayed for the 60-day period after Congress is notified of such proposed removal or modification.

The moratorium provision applies to the issuance of certificates or permits for motor carrier operating authority, all motor carrier merger, consolidation, and acquisition of control proceedings, and all motor carrier restriction removal proceedings.

The conferees recognize that application of this provision can be to any contiguous foreign country or a political subdivision thereof and that this provision applies to foreign-owned corporations domiciled in Canada or Mexico.

The Conferees want to acknowledge the deep concern of Congressman Glenn M. Anderson over the situation which currently exists with respect to the unfair and inequitable treatment of U.S. motor carriers by Mexico. The Conferees believe that the overall compromise reflected in the Bus Regulatory Reform Act of 1982 on foreign reciprocity is adequate to deal with this problem.

The compromise has three key elements to it. First, the President is given the discretion to extend the prohibition with respect to Mexico if Mexico does not substantially change its current policies.

Second, it is the intent and expectation of the Conferees that the President will not waive or modify the moratorium against Mexico until such time as Mexico substantially changes its laws in such a manner to ensure the fair and equitable treatment of U.S motor carriers.

And third, in reaching this compromise, the Conferees have relied on the representations of Administration officials that there will be an increased enforcement effort (including a significant increase in resources) against illegal operations by Mexican carriers in the United States.

In light of the urgent nature of this problem, it is the intent of the Conferees that the Department of Transportation shall, in consultation with the Departments of State, Treasury, Justice, and the U.S. Special Trade Representative, submit a comprehensive progress report to the Congress every six months during the three-year period commencing on the date of enactment of this Act on the implementation of the foreign reciprocity provisions of the Act and on efforts to eliminate illegal Mexican operations in the United States. Such report should also address the Canadian situation, and should be submitted to the Chairman and Ranking Minority Member of the Senate Committee on Commerce, Science and Transportation, and the House Committee on Public Works and Transportation.

Finally, it is the judgment of the Conferees that, notwithstanding the existence of a prohibition imposed under this Act, the ICC has the authority to deny operating rights or the easing of any circumstance related to operating rights, to any carrier from any contiguous foreign country or political subdivision thereof which discriminates against or prohibits entry by U.S. operators. This authority may clearly be traced back to any of the number of sections of title 49, U.S.C.; section 10101, section 10321(a), section 10521(a)(1)(E), and section 10922(b).

RESTRICTION REMOVAL

House bill

The House bill directs the Commission to implement by regulation, within 180 days after the effective date, procedures to process expeditiously applications filed by operators to reduce unreasonable restrictions so as to (1) authorize service to intermediate points on any route covered by their certificates; (2) reasonably broaden regular route service covered by the certificate to off-route points; (3) provide under the certificate round-trip authority where presently only one-way authority exists; or (4) authorize special and charter transportation from all points in a political subdivision of a State in any case in which special and charter transportation authority is limited by the certificate to one or more points of origin in such political subdivision. In deciding these applications, the I.C.C. must give consideration (1) to the impact of the restriction removal on commuter bus operations; (2) to the impact upon the consumption of energy resources, to potential cost savings and to improved efficiency; (3) to the national transportation policy; and (4) to providing and maintaining service to small and rural communities and small shippers.

Senate amendment

The Senate amendment removes certain ICC imposed operating restrictions from existing bus certificates. Certificates shall be deemed to authorize, but not require: (1) round-trip operations where only one-way authority exists; and (2) special and charter transportation from all points in a political subdivision of a State in any case where such authority is limited to one or more points of origin.

With respect to restrictions against service to intermediate points on routes over which transportation of passengers is authorized by an interstate certificate, the amendment provides for removal of such restrictions by the ICC within 90 days upon the request of the holder. The ICC would be required to remove an intermediate point restriction unless it found that the resulting interstate transportation "directly competes with a commuter bus operation" and "will have a significant adverse effect on commuter bus service in the area in which the competing service will be performed." Commuter bus operations are defined the same as for the entry process.

Conference substitute

Same as Senate amendment except for minor technical changes.

MIXING REGULAR AND CHARTER TRANSPORTATION

House bill

The proposal allows motor carriers of passengers to provide charter passenger service in the same vehicle and at the same time as it provides regular route scheduled passenger service. Charter trips between points authorized in the charter certificates could make use of authorized regular route service over any segment of the charter trip. The proposal would also allow mixing of intrastate charter with regular route operations if the law of the individual State allows such mixing. The mixing of charter passengers on regular route service shall not interfere with the obligation of the motor common carrier to comply with the provisions of the Interstate Commerce Act. This section would also allow bus companies, subject to rules and regulations adopted by the Commission, to transport up to three groups of charter passengers in the same motor vehicle and at the same time.

Senate amendment

Same as House bill, except that the Senate amendment deletes the limitation on the mixing of charter groups to three groups per bus.

Conference substitute

Same as Senate amendment.

RULE OF RATEMAKING

House bill

This House provision would establish a rule of ratemaking which must be considered by the Commission in proceedings to determine the reasonableness of rate levels of passenger carriers. It would authorize revenue levels for passenger carriers that are adequate to allow well-managed carriers to cover their costs and to earn a fair return. The standards must alow passenger carriers to achieve revenue levels that will provide a flow of net income, plus depreciation, adequate to support prudent capital outlays, assure repayment of debt permit raising of equity capital and cover the costs of inflation by taking into consideration estimated or foreseeable future costs.

The provision also requires the Commission to consider the new rule of ratemaking when it prescribers the rate; that is, when the I.C.C. establishes the rate.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

RATE BUREAUS

House bill

This House provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

Now, carriers may collectively act on rates where the Commission has approved an agreement for collective action and, in order to have antitrust immunity, the carriers must act within the scope of the agreement. This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

Specifically, this provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry.

The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. Specifically, it eliminates antitrust immunity for voting upon or discussion of single-line rates after January 1, 1984.

The same time limitation applies to joint-line rates except where carriers can practicably participate in the transportation to which the rate applies. This provision will limit the scope of antitrust immunity for collectively discussing and voting on joint rates.

Antitrust immunity is retained for general rate increases and decreases, broad changes in tariff structures, ministerial functions, and for unlimited travel on the system of concurring carriers.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations.

The bill provides for the appointment of three members of the public by the President to the Motor Carrier Ratemaking Study Commission. The newly appointed members will include one member from a motor common carrier of passengers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than $3 million per year from motor common carrier of passengers operations, and one member not affiliated with the motor common carrier industry. The Study Commission members representing the motor common carriers of property shall limit their Commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their Commission voting to matters related to motor common carriers of passengers.

The Study Commission shall make a full and complete investigation and study of the collective ratemaking process for all rates of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The Study Commission shall submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The bill provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the Commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Senate amendment

This Senate provision establishes new guidelines for the bus industry's rate bureau and limits the scope of antitrust immunity.

At the present time, motor carriers of passengers are authorized by the terms of an agreement approved by the ICC to jointly discuss, initiate, and maintain rates for the transportation of passengers and express. Since the agreement was approved by the ICC as in furtherance of the national transportation policy, the antitrust laws do not apply to actions of the carriers in conformity with the collective ratemaking agreement (section 10706(c), title 49, United States Code). This general procedure is permitted to continue under the revised guidelines enacted into law in the Motor Carrier Act of 1980 and as amended by this section.

This provision applies subsection 10706(b) to the bus industry, except where specific provisions are set forth which apply solely to the bus industry. The specific provisions are set forth in new subsections (b)(3)(E), (b)(3)(F), and (b)(5).

Subsection (b)(3)(E) limits the scope of antitrust immunity for collective ratemaking. On and after January 1, 1983, no collective ratemaking agreement approved for motor carriers of passengers may provide for discussion of or voting upon single-line rates. Under the House bill, this prohibition would not become effective until January 1, 1984.

Second, on and after January 1, 1984, no agreement approved for motor carriers of passengers may provide for discussion of or voting upon any joint rate. The House bill would provide antitrust immunity for an indefinite period with respect to joint rates for interline movements if the carriers involved "can practicably participate" in such movements.

Finally, as in the Motor Carrier Act of 1980, general rate increases and decreases are excepted from the prohibitions against collective consideration of single-line and joint-line rates. In considering such increases and decreases carriers would not be allowed to discuss individual markets or particular single-line rates or joint rates. Industry average carrier costs and intermodal competitive factors may be discussed by the carriers.

Immunity for broad changes in tariff structure and changes in promotional or innovative fares is also retained.

Immunity is also retained for publishing of tariffs, filing of independent actions, providing of support services for members, and changes in rules or regulations.

New subsection (b)(3)(F) eliminates antitrust immunity for collective ratemaking for rates applicable to charter operations and to special operations. Using the language of the Motor Carrier Act of 1980, new subsection (c)(5) prohibits the ICC from taking any action which would result in the exclusion of discussion or voting on matters concerning rates, allowances, or divisions prior to January 1, 1983, unless the regulations are to take effect after that date.

The amendment provides for the appointment of four members of the public by the President to the Motor Carrier Ratemaking Study Commission. The newly appointed members will include one member from a motor common carrier of passengers company receiving $3 million or more per year in revenues from motor common carrier of passengers operations, one member from a motor common carrier of passengers receiving less than than $3 million per year from motor common carrier of passengers operations, and two members not affiliated with the motor common carrier industry. The study commission members representing the motor common carriers of property shall limit their commission voting to matters related to motor common carriers of property. The members representing the motor common carriers of passengers and the public who are not affiliated with the motor common carrier industry shall limit their commission voting to matters related to motor common carriers of passengers. The bill increases the authorization for the study commission from $3 to $4 million.

The study commission will be required to make a full and complete investigation and study of the collective ratemaking process for general rate changes, innovative fare changes, and broad changes in tariff structure of motor common carriers of passengers and upon the need or lack of need for continued antitrust immunity. The study commission will be permitted, but not required, to study the collective ratemaking process for single-line or joint-line rates of motor common carriers of passengers. The study commission will be required to submit to the President and the Congress its final report on the collective ratemaking process applicable to motor common carriers of passengers not later than January 1, 1984.

The study commission also is required to study the impact of the Senate amendment on persons over the age of 60 and submit its final report on the results of this study not later than January 1, 1984. If the study commission, before submission of such report, finds that the viability of continued intrastate services are jeopardized, the study commission shall immediately notify Congress and the ICC. After receiving notification of such a finding, the ICC shall give expedited treatment to any recommendations made to it.

The Senate amendment provides a transition period during which existing rate bureau agreements can remain in effect until new agreements which conform to the new statutory guidelines can be submitted to the commission. New agreements must be submitted within 120 days after the effective date of this legislation. The reforms in the legislation must be complied with during the transition period.

Conference substitute

Same as Senate amendment except for miner technical changes.

ZONE OF RATE FREEDOM

House bill

The House bill amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise passenger and express fares, including both single-line and joint rates, not more than ten percent above or more than twenty percent below the rate in effect one year prior to the effective date of the proposed rate without suspension by the I.C.C. The use of percentage general rate increases by passenger carrier will count against the upward ten percent zone of freedom.

Under the zone of rate freedom, the Commission has the discretion to increase the zone an additional ten percentage points annually above that provided the carrier under the new paragraph (4)(B) of section 10708 *of title 49, United States* Code. In deciding whether to increase the percentage, the Commission will consider (1) whether there is sufficient actual and potential competition to regulate routes and whether there are benefits to the traveling public from further rate flexibility, or (2) whether an increase is needed to meet the costs of inflation.

The House bill also provides that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

The antitrust laws apply to all proposals using the zone or rate freedom.

Senate amendment

Amends section 10708 of title 49, United States Code. A new paragraph (d)(4) extends the zone of rate freedom to motor carriers of passengers. The extent of the zone of freedom and the applicability of the zone for passenger carriers differ slightly from that of the Motor Carrier Act of 1980. Paragraph (4) states that passenger carriers can raise any passenger or express fare (other than charter or special transportation fares) not more than 10 percent above or more than 20 percent below the rate in effect 1 year prior to the effective date of the proposed rate without suspension by the ICC on the grounds that such rate is unreasonable on the basis that it is too high or too low. The carrier must notify the ICC that it wants the rate considered pursuant to this subsection. The use of general rate increases by a passenger carrier will count against the upward zone of freedom.

One year after the effective date of the Act, the limits for the zone become 15 percent above and 25 percent below rates then in effect; 2 years after, 20 percent above and 30 percent below. Three years after the effective date, paragraph (e) removes ICC authority to suspend rates, except on ratemaking actions where antitrust immunity is retained or where any rate is predatory or discriminatory. Interested parties may, however file a complaint under section 11701 of this title challenging the reasonableness of a rate filed under the zone. The complaint remedy continues to be available after the specific parameters of the zone are removed after three years. Paragraph (e) requires the ICC to dispose of such complaints within 90 days after the complaint is filed.

The antitrust laws apply to all proposals using the zone of rate freedom. However, paragraph (d)(5) of section 10708 states that an antitrust violation cannot be inferred when a carrier uses the zone of rate freedom to raise a rate which is similar to a joint rate action under the zone taken by such carrier together with one or more common carriers of passengers.

Conference substitute

Same as Senate amendment.

RATES FOR SPECIAL AND CHARTER TRANSPORTATION

House bill

The House bill eliminates Commission investigation and suspension powers over the reasonableness of rates proposed by passenger carriers of special operations or charter transportation. Collective consideration of these rates by the industry rate bureau would be prohibitied although filing and publication of such rates by the rate bureau would continue to be allowed. The Commission would retain the authority to suspend or investigate proposed charter or special service rates on the basis that rates are discrininatory or consititue predatory practices.

The bill retains the notice requirement for charter and special operations rate change increases at 30 days while the notice requirement for charter and special rate decreases is reduced to 10 days.

Senate amendment

Same as House bill, except that the ICC only retains authority to review special and charter rates on the basis of predatory practices.

Conference substitute

Same as Senate amendment.

ENTRY POLICY FOR MOTOR CONTRACT CARRIERS OF PASSENGERS

House bill

Entry for contract carriers of passengers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Senate amendment

The Senate amendment states that the entry test for bus contract carriers is a fit, willing and able entry test only. Fit, willing and able is defined as a carrier meeting safety and insurance requirements.

The Senate amendment further allows the ICC to amend or revoke a contract carrier's permit and issue in its place a common carrier certificate if the ICC determines that a carrier's operations do not conform with those of a contract carrier but rather are those of a common carrier.

Conference substitute

Same as Senate amendment, except for minor technical changes.

ENTRY POLICY FOR BROKERS OF PASSENGERS

House bill

Entry for brokers will be determined on a fitness only basis. Fitness will include financial fitness, operational fitness, and safety fitness.

Regulated common carriers and regulated contract carriers are given a specific duty to utilize only brokers that hold licenses.

Senate amendment

Exempts motor carrier brokers of passengers from ICC regulation except that the ICC retains discretion to impose such requirements for bonds or insurance or both as it determines are needed to protect passengers and carriers dealing with brokers.

Conference substitute

Same as Senate amendment, except for minor technical changes.

TEMPORARY AND EMERGENCY TEMPORARY AUTHORITY

House bill

This provision generally applies the changes of section 23 of the Motor Carrier Act of 1980 to motor carriers of passengers. This section expedites the handling of temporary authority requests by the Commission and codifies emergency temporary authority (ETA) for passenger carriers. The main difference between this section and the comparable section of the Motor Carrier Act of 1980 is that in the case of an ETA used for passenger transportation in an area or to a point not previously served, the Commission can extend the ETA an additional 90 days (a total extension of 180 days).

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

EXIT POLICY

The House bill adds a new section 10935 to title 49, United States Code, to provide a procedure for carriers to exist or substantially reduce the service level on the intrastate portion of a route for which they have both interstate and intrastate authority.

Subsection (a) of proposed section 10935 establishes the criteria that must be met before a bus carrier can petition the Commission for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in the proposed amendment to section 11501 of title 49.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate authority and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request or failed to act within 120 days.

Fourth, the bus carrier must not be owned or controlled by a State or local government.

And fifth, the bus carrier must certify that it has notified th Governor of the State, the appropriate State agency, the affecte communities, and such other persons as the Commission may specify that it intends to petition the Commission for relief.

If these conditions are met, the Commission is required to consider granting relief. If no one protests within 20 days, the Commission must grant the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the Commission must grant the discontinuance or reduction in service unless the State or other protestant demonstrates that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce. However, the Commission can only grant a discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the Commission has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest or that continued intrastate service would not constitute an unreasonable burden on interstate commerce, the Commission is required to consider (to the extent raised by a protestant) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source;

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether a reasonable alternative transportation service to that area is available; and

(4) whether granting a carrier's request will have a significant adverse effect on commuter bus operations.

If the Commission finds that the discontinuance is not consistent with the public interest or that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

The Commission must complete action within 90 days from the time the petition is filed.

The Commission is also given the discretionary authority to require the carrier to continue providing service for up to 180 days after the petition so that, in cases where it is going to permit the discontinuance or reduction in service, the State and affected communities have time to find a replacement carrier.

Senate amendment

The Senate amendment proposes a two step process by which the ICC can preempt burdensome state regulations by adding a new section 10935 to title 49, United States Code, which establishes a procedure under which carriers can exist or substantially reduce interstate and intrastate routes on which both types of service are provided.

Subsection (a) of section 10935 establishes the criteria that must be met before a bus carrier can petition the ICC for relief. Basically, the carrier must meet five conditions.

First, the bus carrier must be applying to discontinue service or to reduce service to less than one trip per day (except Saturday or Sunday). Reductions in service which do not meet these criteria, such as a reduction in service from five trips per day to two trips per day, do not fall within the scope of proposed section 10935 and are dealt with in section 17 of the Bus Regulatory Reform Act of 1982, pertaining to discriminatory State regulation of rates and practices.

Second, the proposed discontinuance or reduction in service must apply to both the interstate service and the intrastate service being provided along a route for which the carrier has both interstate and intrastate authority.

Third, the bus carrier must have applied to the appropriate State agency, and the State agency must have either denied the request or failed to act with 120 days.

Fourth, the bus carrier must not be owned or controlled by a State of local government.

Fifth, the bus carrier must certify that it has notified the governor of the State, the appropriate State agency, the affected communities, and such other persons as the ICC may specify that it intends to petition the ICC for relief.

If these conditions are met, the ICC is required to consider granting relief. If no one protests within 20 days, the ICC must allow the discontinuance or reduction in service.

If any State or any other person protests within 20 days, the ICC must grant the discontinuance or reduction in service unless it is demonstrated that it is not an unreasonable burden on interstate commerce to continue or maintain the service. Continuance of the transportation would not be a burden if discontinuance or reduction of the service is not consistent with the public interest and the interstate and intrastate revenues from the service are adequate to cover the variable costs of operating the service.

In defining what constitutes an unreasonable burden on interstate commerce, the Senate amendment provides that the intrastate and interstate revenues must be adequate under reasonable pricing practices to cover the variable costs of providing the transportation.

However, the ICC can only grant discontinuance if the carrier has applied for authority to discontinue the interstate portion of the service under section 10925 of title 49, United States Code, and if the ICC has granted or will grant such authority.

In determining whether the carrier's request is not consistent with the public interest, the ICC is required to consider (to the extent applicable) at least the following:

(1) the national transportation policy set forth in section 10101 of title 49, United States Code;

(2) whether the carrier is receiving or has received an offer of financial assistance from either a public or private source; and

(3) whether the service to be discontinued or reduced is the last motor carrier of passenger service to that area or whether

a reasonable alternative transportation service to that area is available.

If the ICC finds that continuing the transportation is not an unreasonable burden on interstate commerce, it is not authorized to preempt the State decision. In this situation, the carrier would have to continue providing the intrastate service as required by the State.

In order to expedite proceedings under this section, the ICC must complete action with 75 days from the time the petition is filed.

The ICC is also given the discretionary authority to require the carrier to continue providing service for up to 150 days after the petition so that, in cases where the discontinuance or reduction in service is to be granted, the State and affected communities have time to find a replacement carrier.

In order to encourage experimental service by a motor common carrier of passengers, the act prohibits States from taking action on exit from service initiated under the three fitness-only cases. These include entry for: (1) interstate service to any community not regularly served by a motor common carrier of passengers; (2) interstate transportation service which will substitute for discontinued rail or commercial air passenger service; and (3) interstate service to any community where the only interstate bus carrier providing service to the community applies to discontinue interstate service or reduce its intrastate service. Carriers, may, however, be required to give 30 days notice before discontinuing or reducing the service.

Conference substitute

Same as House bill, except that (1) the Commission must give great weight to the extent to which the carrier's interstate and intrastate revenues on the route to be discontinued are less than the variable costs of providing the transportation on such route; (2) in the case of a route for which interstate authority is granted after August 1, 1982, the Commission shall grant a protested application for discontinuance of or reduction in intrastate service on such route, unless it finds that continuing the service will not constitute an unreasonable burden on interstate commerce; (3) the Commission may order an exit applicant to continue providing the intrastate service to be discontinued or reduced for 165 days after submission of such application instead of the 180 days specified by the House bill; and (4) the States are preempted from taking any action (other than requiring 30-days pre-notification) on exit from intrastate service which corresponds to interstate service initiated under the 3 fitness-only categories specified in section 10922(c)(4) of title 49, United States Code. The exceptions specified in clauses (2) and (4) of the preceding sentence are the same as the Senate amendment.

DISCRIMINATORY STATE REGULATION OF RATES AND PRACTICES

House bill

This section of the House bill would permit the Commission to prescribe any intrastate rate, rule, or practice of a motor common carrier of passengers if the carrier has requested permission to establish the rate, rule, or practice from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request. If the request relates solely to scheduling, the time is shortened to 60 days.

Once the Commission has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule, or practice in effect at the State level causes unreasonable discrimination against or imposes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. As in the other preemption sections, the carrier would first have to go to the State for a rate change request and, after a denial or undue delay, could appeal the action or inaction to the Commission. The State could protest at the Commission and argue that the State action was reasonable.

The House bill creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the Commission.

There is a rebuttable presumption that:

(A) any rate, rule, or practice imposed by a State for a motor common carrier of passengers imposes an unreasonable burden on interstate commerce if it makes the following findings:

(1) that the rate, rule or practice results in intrastate rates lower than comparable interstate rates;

(2) that the carrier's intrastate revenues which result from the State's rate, rule, or practice fall below the variable costs of providing such intrastate service; or

(3) the department, agency, or instrumentality of the State having jurisdiction over the rate, rule, or practice failed to act on the request of the carrier by the 120th day (or by the 60th day for a scheduling change);

(B) if a State grants a general rate increase that is below the most recent general rate increase approved by the Commission; and

(C) if the Commission finds that the scheduling which the carrier proposes to establish would conform the schedules applicable to such transportation on such route to schedules applicable to interstate transportation provided by the carrier on such route under this subtitle.

If a carrier applies for relief to the Commission under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The Commission must take final action within 60 days upon receipt of application (30 days if the application relates solely to scheduling). This subsection shall not apply to any carrier owned or controlled by a State or local government.

The House bill also provides that the Commission, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the Commission for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this Act, the Commission is required to report to Congress on its effects in this area.

Senate amendment

The Senate amendment, with two exceptions, confers a review power in the ICC with respect to all proposed increases in intrastate passenger fares and express rates. The first exception is that the States would retain full authority over the rates of carriers owned or controlled by a State or local government. Secondly, State ratemaking authority over the intrastate rates of solely intrastate carriers would not be affected.

Although the ICC, with the two exceptions noted, is granted appellate review power over the intrastate rates of interstate motor carriers of passengers, States would continue to regulate such rates. State regulatory commissions are familiar with the special circumstances which might justify the prescription of some intrastate fares at a level lower than the corresponding interstate fares.

The Senate amendment would permit the ICC to prescribe any intrastate rate increase of a motor common carrier of passengers of the carrier has requested permission to increase the rate, from the department, agency, or instrumentality of the State having jurisdiction over the intrastate route and the request has been either denied or not acted on finally by the 120th day of the request.

Once the ICC has jurisdiction, it may prescribe the rate, rule, or practice for the carrier if it finds that the rate, rule or practice in effect at the State level causes an unreasonable burden on interstate commerce.

This section creates a mechanism to remedy situations where State actions are creating an unreasonable burden on interstate commerce. The State could, however, protest at the ICC and argue that the State action was reasonable.

The Senate amendment creates a new subsection (e) to section 11501 which details the procedure for preempting State decisions with respect to rates and practices. This procedure would also apply to State rate decisions affecting package express rates or practices. The carrier must first file the rate change request with the State and have the request denied or unduly delayed before the carrier could file with the ICC.

There is a rebuttable presumption that any intrastate bus rate, rule or practice imposes an unreasonable burden on interstate commerce if the ICC finds that: (1) such rate, rule, or practice results in the carrier charging a rate for intrastate transportation which is lower than the rate for comparable interstate transportation; (2) on the basis of evidence presented by the carrier, that as a result of such rate, rule or practice, the carrier does not receive revenues which exceed the variable costs of providing such transportation; or (3) the appropriate State authority failed to act finally on the request of the carrier to establish such rate, rule, or practice by the 120th day after the date the carrier made the request.

Any rate applicable to solely intrastate transportation imposes an unreasonable burden on interstate commerce if the ICC finds that the most recent general rate increase applicable to the bus transportation in a State is less than the most recent general rate increase applicable to interstate common carrier bus transportation.

If a carrier applies for relief to the ICC under this section, it is required to submit a copy of such application to the department, agency, or instrumentality of the State which denied or failed to act upon its request. The ICC must take final action within 60 days upon receipt of application.

States may not act on intrastate scheduling changes on authorized interstate routes or on intrastate rate reductions relating to transportation over such routes. For scheduling changes, carriers may be required to give States 30 days advance notice. This provision does not apply to intrastate commuter service.

If the Commission, upon complaint, determines that a rate reduction for intrastate service provided on an interstate route is a predatory practice, the Commission shall prescribe the rate.

The Senate amendment provides that the ICC, along with interested States and their national associations, shall cooperate with each other to establish standards and procedures to promote, to the extent feasible, uniformity among the States and which are consistent with the standards and procedures established by the ICC for rates, rules, and practices applicable to motor common carriers of passengers. No later than 30 months after the date of enactment of this act, the ICC is required to report to Congress on its efforts in this area.

Conference substitute

Same as Senate amendment, except for minor technical changes and the addition of language which makes clear that a rate reduction for intrastate service provided on an interstate route which the Commission finds is a predatory practice is unlawful. A predatory practice includes a destructive competitive practice.

FINANCIAL RESPONSIBILITY

House bill

Section 18(a) of the House bill amends existing law so as to require the Secretary of Transportation to establish regulations which will provide minimum financial requirements for motor carriers of passengers involved in interstate or foreign commerce.

Section 18(b) (1) and (2) establishes the following minimum levels of financial responsibility: $5 million for vehicles having a seating capacity of more than 15 persons and $1.5 million for vehicles having a seating capacity of 15 or less. The Secretary of Transportation has the discretion to reduce these minimum levels for the two-year period beginning on the effective date of the regulations issued under subsection (a), or for any part of this period, if the Secretary finds that such reduction will not adversely affect public safety and will prevent a serious disruption in transportation.

During the two-year period, the minimum financial requirement for a carrier having a vehicle with a seating capacity of more than 15 passengers, is $2.5 million, and no less than $750,000 for a carrier having a vehicle with a seating capacity of 15 or less.

Subsection (c)(1) provides that, if the secretary does not establish regulations setting a minimum financial requirement by the end of the one-year period, beginning on the effective date of the Act, then the higher levels cited in 18(b) go into effect until such time as the Secretary, by regulation, changes such amount as discussed in this section.

Subsection (c)(2) provides that if the Secretary, by regulation, makes a change as discussed in (c)(1) after the higher levels have gone into effect, then these lower amounts may only remain in effect for a two-year period, beginning on the 366th day following the effective date of this Act.

Section 18(d) sets forth the methods by which carriers will be able to demonstrate financial responsibility.

Section 18(e)(1) establishes civil penalties for violations of this section.

Section 18(e)(2) establishes procedures for collecting civil penalties for violations of this section.

Section 18(f) excludes school buses, taxicab service and certain motor vehicles carrying less than 16 individuals (van pools).

Senate amendment

Same as House bill, except that the Senate amendment expressly includes high self-retention as a method of establishing financial reponsibility.

Conference substitute

Same as Senate amendment.

SECURITIES OF MOTOR CARRIERS OF PASSENGERS

House bill

The House bill transfers jurisdiction over the issuance of securities for motor carriers of passengers from the Commission to the Securities and Exchange Commission.

The Commission would still retain its general authority under sections 11343 and 11344 to regulate intercorporate transactions and monitor or impose any conditions on any transactions referred to in this section. In the past, the Commission has imposed conditions on a bus carrier that stated that the carrier could not engage in any of the following activities without express Commission approval:

(1) declare or pay a dividend; for example, the Commission determined that the carrier should not pay in excess of 70 percent of its net income in dividends without Commission approval;

(2) make advances to affiliated companies;

(3) encumber its assets for noncarrier purposes; or

(4) engage in any other intercompany property transactions.

Senate amendment

The Senate amendment removes all motor carriers from ICC jurisdiction in the securities area and places them under the jurisdiction of the Securities and Exchange Commission.

Conference substitute

Same as Senate amendment except for a conforming cross reference change to section 11348 of title 49, United States Code.

TAX DISCRIMINATION

House bill

Section 20 of the House bill amends section 11503a(a)(3) of title 49, U.S.C., by striking out "of property." This provision makes current law which prohibits the assessment, levying or collecting of taxes on motor carrier property in a manner different from that of other commercial and industrial property applicable to motor carriers of passengers.

This section applies to motor carriers owned and used in interstate commerce, whether or not subject to the Commission's jurisdiction. The provision thus makes the law uniform for motor carriers of passengers and motor carriers of property.

The prohibition applies to taxes on real or personal property, general sales taxes, or other levies that are part of the general tax structure applicable to commercial activity. It does not apply to highway user taxes.

Relief from violations is available in Federal and State courts.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill except for a minor technical change to clarify an amendment made by the Motor Carrier Act of 1980.

MERGER PROCEDURE

House bill

Section 11345 of title 49, U.S.C., is amended to include the identical merger procedures established under the Motor Carrier Act of 1980 for motor carriers of passengers. The intent of this procedure, as was the case for motor carriers of property, is to expedite Commission procedures for consolidation merger, and acquisition of control. Deadlines are imposed for disposition of these types of proceedings.

The House bill also changes the criteria for deciding motor carrier applications under section 11344 back to the criteria that existed for motor carriers prior to the Staggers Rail Act of 1980.

Senate amendment

Section 21 of the Senate amendment gives the ICC the authority to exempt merger, consolidation, and acquisition of control transactions involving motor carriers of property from the pertinent provisions of title 49. The ICC may exempt such transaction if it finds that scrutiny of the transaction is not necessary to carry out the national transportation policy and either that the transaction is of limited scope or that such scrutiny is not needed to protect shippers from the abuse of market power. The ICC may revoke an exemption if it finds that review of the transaction is necessary to carry out the national transportation policy.

Section 21 also reinstates the criteria which the ICC must consider in merger, consolidation, and acquisition of control proceedings involving motor carriers of passengers which existed prior to enactment of the Staggers Rail Act of 1980. These criteria include: (1) the effect of the proposed transaction on the adequacy of transportation to the public; (2) the effect on the public interest of including, or failing to include, other rail carriers in the area involved; (3) the total fixed charges resulting from the proposed transaction; and (4) the interest of affected carrier employees.

This section also amends section 11345a to include the mergers of motor carriers of passengers in the expedited procedures established for motor carriers of property in the Motor Carrier Act of 1980.

This section does not in any way affect the ICC's jurisdiction with regard to rail transactions under subchapter III of title 49, U.S.C.

Conference substitute

The conference substitute is the same as the House bill and the Senate amendment with respect to merger, consolidation, and acquisition of control provisions involving motor carriers of passengers. In addition, the conference substitute, like the Senate amendment, amends subchapter III of chapter 113 of title 49, United States Code, to authorize the Commission to exempt a person, class of persons, transaction, or class of transactions, involving an interstate truck carrier from the merger, consolidation, and acquisition of control provisions of such subchapter if (1) such provisions are not necessary to carry out the national transportation policy, and (2)(A) the concerned transaction is of limited scope, or (B) such provisions are not needed to protect shippers from abuse of market power.

The conference substitute, unlike the Senate amendment, requires, before an exemption takes effect, the applicant for the exemption to give the Commission and the public 60 days advance notice. It is expected that the Commission will arrange for publication of the notice in a manner that notifies the public of the proposed transaction. The Commission may publish notice itself or it may require the participants to publish the notice. In any event, the notice should be provided in a manner so that persons and employees affected by the transaction receive adequate notice.

A mereger exemption granted may be revoked, in whole or in part, if the Commission finds (1) it is necessary to carry out the national transportation policy, or (2) employees of a carrier who is to participate in the exempt transaction are or will be adversely affected by such transaction.

SAFETY ENFORCEMENT

House bill

This section of the House bill provides for suspension of operating authorities by the Commission in an expedited manner. Upon request of the Secretary of Transportation, the Commission would be able to suspend the operating authority of a carrier where the carrier has engaged in continuous unsafe acts that constitute an immediate hazard to life or property.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ILLEGAL OPERATIONS

House bill

This section of the House bill would double the civil penalties for illegal operations for carriers holding no authority to operate in interstate commerce.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

ADMINISTRATIVE ASSISTANCE

House bill

To assist local governments and smaller carriers in presenting their positions effectively, section 24 of the House bill permits the Commission to provide them with assistance in preparing for proceedings dealing with the new preemptive sections of the law.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill.

STUDY OF CITIZEN BAND RADIOS ON BUSES

House bill

This section of the House bill directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the bus operator on motor vehicles providing intercity motor carrier passenger transportation. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health, and convenience of passengers of such vehicles.

A full and complete investigation and study by the National Academy of Sciences shall be conducted to resolve safety, technical, and administrative problems precluding intercity bus operators from having full access to any type of communication system that may be used for enhancing public safety.

The National Academy of Sciences shall submit to the Secretary of Transportation and the Congress the results of the study, along with its recommendations, within six months of entering into the contract but no later than one year after the effective date of this bill.

After receipt of the report, the Secretary is required to initiate a rulemaking proceeding to determine whether or not citizen band radios should be allowed to be used by bus operators. The Secretary has 120 days to complete the proceeding.

The provision also provides that the Secretary shall issue regulations establishing guidelines for the use of such radios if the Secretary determines that their use should be allowed.

If the Secretary recommends the use of citizen band radios, motor carriers would be required to permit the use of such radios.

Senate amendment

This section of the Senate amendment directs the Secretary of Transportation to contract with the National Academy of Sciences to conduct a study of the use of citizen band radios by the operators of carriers providing intercity bus service. The study shall determine the effect on safety if intercity bus operators are authorized to use citizen band radios and the effect on the safety, health and convenience of passengers on these vehicles.

The Academy is to submit a report to Congress and to the Secretary on the result of this study, along with its recommendations within 1 year after entering into a contract with the Secretary.

Within 60 days of submission of the Academy's report the Secretary is required to initiate a rulemaking proceeding to determine whether operators of buses for ICC regulated bus companies should be allowed to use citizen band radios. The rulemaking is to be completed within 120 days after its initiation.

If the Secretary issues a rule or regulation which recommends that bus operators be allowed to install temporarily and operate citizen band radios the Secretary must issue guidelines on their use to ensure protection of public safety.

A new section 11111 is added to title 49, United States Code, which provides that the Secretary may recommend the temporary use of citizen band radios. If the Secretary recommends this, then the Secretary must issue guidelines for their use and installation.

Conference substitute

Same as Senate amendment.

BUS TERMINAL STUDY

House bill

The House bill directs the Department of Transportation and the Commission to conduct a full investigation and study of the ownership, location, and adequacy of bus terminals and their capacity to provide passenger service in accordance with the transportation policy set forth in title 49, U.S.C., sec. 10101. This investigation and study must be completed, including legislative recommendations, and be submitted to the President and the Congress not later than December 31, 1982.

The House bill provides that the report include an analysis of, at least, (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Senate amendment

The Senate amendment requires the Secretary of Transportation and the ICC to make a full investigation and study of the relationship between the ownership, location and adequacy of bus terminals and their capacity to provide passenger service in accordance with the national transportation policy. A report, including legislative recommendations, shall be submitted to the President and Congress by December 31, 1983. The report shall include an analysis of: (1) the pattern of ownership of bus terminals, including public and private ownership; (2) the desirability of terminals for more than one mode of transportation and their impact on urban development; and (3) the desirability of governmental assistance in the construction of nonurban bus terminals.

Conference substitute

Same as Senate amendment.

EMPLOYEE PROTECTION

House bill

The House bill requires that an employee who is terminated by a motor common carrier of passengers for a reason other than cause within ten years of the date of enactment of the Act shall have a right of priority reemployment by that carrier at such time as it is hiring additional employees in his or her occupational specialty.

The House bill provides that a motor common carrier of passengers has a duty to hire an individual in his or her occupational specialty before hiring any other individual, if such individual (1) was terminated previously by such carrier, (2) has applied for a vacant position for which such carrier is accepting applications, and (3) if the employee has notified the carrier that he or she is eligible for protection under this section.

The House bill states that an employee who is terminated for reasons other than cause within ten years of the date of enactment of the Act shall have a right of consideration by those other motor common carriers of passengers, aside from the one which terminated his or her employment, whenever it is hiring employees in his or her occupational specialty. The House bill applies this provision to those employees who have applied for a vacant position for a carrier which is accepting applications to fill the vacancy and have notified such carrier that he or she is eligible for protection under this section.

Eligible protected employees under the House bill are those who, other than members of a board of directors or officers of a corporation, were employed by a motor common carrier of passengers for the two-year period ending on the date of enactment and who, upon application of such individual, the Commission determines was terminated as a result of certain actions under the Act.

The House bill requires the Commission to establish and publish a list of vacancies available with Class I carriers (those having annual gross revenues from motor carrier of passenger operations exceeding $3 million) that includes relevant information relating to those job descriptions and requisite skills, as the Commission deems necessary. The Commission may require Class I carriers to provide it with certain information allowing it to fulfill its mandate under this provision. The Commission is also directed to make every effort to assist eligible protected employees in finding other available employment.

Under the House bill, a motor common carrier shall not be considered to be hiring employees when it recalls any of its own furloughed employees, and furloughed employees who still enjoy a right of recall shall not be considered to be terminated.

The House bill shall not be construed as affecting any affirmative action plan or hiring plan designed to eliminate discrimination that is required by any Federal or State law, regulation, or executive order, or by order of a Federal court or agency, or is a permissible voluntary affirmative action plan.

The House bill does not apply to a carrier owned or controlled by a State or local government or to any periodic discontinuance or reduction which is seasonal in nature. The House bill directs the Commission to issue regulations implementing the employee protection provisions within six months of the Act's effective date and terminates the employee protection provisions on the last day of the twelfth year following the Act's effective date.

Senate amendment

Same as House bill.

Conference substitute

Same as House bill and Senate amendment.

BUDGET AUTHORITY

House bill

The House bill insures that for fiscal year 1982 only funds which have already been appropriated or authorized may be used to support the various activities of the bill. No new budget authority or new spending authority is authorized.

Senate amendment

No comparable provision.

Conference substitute

No comparable provision.

PUBLICATION OF COMMISSION ACTIONS

House bill

No comparable provision.

Senate amendment

The Senate amendment allows the ICC to adopt, after a rulemaking a special procedure for providing interested parties reasonable notice of entry or restriction removal applications rather than requiring use of the Federal Register.

The legislation also amends section 10328 to eliminate the statutory requirement that notice of filing of new applications be provided to state regulatory commissions in all of the states in which the applicant proposes to operate. At present, the ICC's regulations provide for service upon the State commissions at their request. This type of notification will also continue.

Conference substitute

Same as Senate amendment.

GENDER NEUTRAL TERMS

House bill

No comparable provision.

Senate amendment

This section of the Senate amendment replaces gender specific terms in title 49 of the United States Code with gender neutral terms. For example, the term "seaman" is replaced with "sailor."

Conference substitute

Same as Senate amendment.

EXEMPT TRANSPORTATION

House bill

No comparable provision.

Senate amendment

The Senate amendment amends section 10525 of title 49, United States Code, to exempt motor carrier transportation (other than transportation of household goods) in the State of Hawaii from the jurisdiction of the Commission and to authorize such State to regulate such exempt transportation and motor vehicle transportation in terminal areas exempt from the Commission's jurisdiction under section 10523.

Conference substitute

Same as Senate amendment.

EFFECTIVE DATE

House bill

The Act takes effect 60 days after the enactment.

Senate amendment

The Act is to take effect 60 days after enactment, except that (1) the amendment to section 14(b)(12) of the Motor Carrier Act of 1980, increasing the authorization for the Motor Carrier Ratemaking Study Commission from $3,000,000 to $4,000,000 takes effect on October 1, 1982, and (2) the amendment pertaining to entry of Mexican and Canadian motor carriers and the amendment exempting motor carrier transportation in the State of Hawaii from ICC jurisdiction take effect on enactment.

Conference substitute

Same as Senate amendment.

JAMES J. HOWARD,
GLENN M. ANDERSON,
PETER W. RODINO, Jr.,
DON CLAUSEN,
BUD SHUSTER,
Managers on the Part of the House.

BOB PACKWOOD,
JOHN C. DANFORTH,
HOWARD W. CANNON,
Managers on the Part of the Senate.

○